

NRAC Presentation to CEC on the Review of the Red River Floodway Expansion Project

North Ritchot Action Committee members were nominated and elected at a town-hall meeting in November 1997 to represent residents of the area with respect to flood issues. Since then we have been continuously active in advocating fair treatment of upstream residents and educating residents through a series of seminars presented by various experts: PFRA, EMO, CEAA etc. NRAC has been widely recognized by residents as well as such organizations as the Manitoba Water Commission, the International Joint Commission, Manitoba Water Branch, and the Community University Research Alliance (CURA) for representing community interests. By far, NRAC has the longest record of participation in the processes leading to the current project review.

NRAC has made many presentations to the Manitoba Water Commission, the International Joint Commission including – 3 the International Red River Basin Task Force, the Manitoba Clean Environment Commission on Options for Winnipeg's Flood Protection, the Flood Protection Program Review Panel, and Flood Risk Management Workshop. Most included written submissions. We are currently participating in the environmental assessment of the proposal to expand Winnipeg's floodway, which brings us here today.

We are here as unfunded intervenors to voice the concerns of upstream residents over the CEC process and the consequences of floodway expansion. We have presented our concerns over floodway expansion to the Project Administration Team (PAT) which is leading this environmental assessment and has the responsibility of ensuring it meets the requirements of CEAA and the Manitoba Environment Act (Doc 1 - Strachan 13 July 2004). CEC has received copies of these and is well aware of our main concerns. CEC is also well aware that NRAC believes the environmental review process, hence environmental approvals, would be best served by public hearings as part of a joint panel under CEAA. Here I will provide our rationale for considering the current CEC hearings misdirected and inadequate, and present a brief synopsis of issues in the EIS that require full public discussion in a joint panel.

CEC Process

It is NRAC's considered opinion that the current CEC review prejudiced its outcome by the exclusion of the very issues of interest to affected residents (Doc 2 - NRAC 12 Aug 2004, Doc 3 - NRAC 19 Aug 2004).

A project like floodway expansion requires an environmental assessment at both the Provincial and Federal levels. Manitoba and Canada have determined that a cooperative environmental assessment under the *Canada-Manitoba Agreement on Environmental Assessment Cooperation (the Agreement)* (Doc 4) will be undertaken for the Red River Floodway Expansion Project. The agreement stipulates that the environmental review will include "the factors listed in subsections 16(1) and 16(2) of the federal act."

Section 16 of CEAA states every environmental review "shall include":

- a. "the environment effects of the project, including the environment effects of malfunctions or accidents...and any cumulative environmental effects that are likely to result from the project in combination with other projects or activities that have been or will be carried out" (16 (1)(a))
- b. "any other matter relevant to the screening, comprehensive study, mediation or assessment by a review panel such as the need for the project and alternatives to the project..." (16 (1)(e))

31 January 2005

Page 2

16 (2) says an assessment by a panel "shall include"

- a) the purpose of the project;
- b) alternatives; and
- c) follow-up programs.

For the record, CEAA defines a project to be the "the construction, operation, modification, decommissioning, abandonment or other undertaking in relation to the project [CEAA Section 2] and the Provincial Environmental Act (1(2)) defines a development as "any alteration or expansion of any project, industry, operation or activity which causes or is likely to cause (f) the utilization of a technology...that may induce environmental damage."

Under the Canada-Manitoba agreement this would translate into an environmental review that "shall" include consideration of:

- An examination of purpose of floodway expansion;
- An examination of the alternatives to floodway expansion;
- The operation of the expanded floodway including an examination of the operating rules that govern that operation;
- The environmental effects of the proposed project or in the parlance of CEAA any change that the project may cause in the environment including any effect of any change on health and socio-economic conditions;
- The cumulative environmental effects of the project in combination with other projects or activities that have been or will be carried out;
- An examination of the measures that are technically and economically feasible and that would mitigate any significant environmental effects and a program to ensure that any mitigation measures referred to are implemented; and
- A determination of the significance of the environmental effects of the project and any follow-up review or mediation as required.

However, the Clean Environment Commission informed participants on June 1 that the CEC review would specifically exclude:

- discussion and analysis of the purpose of the project,
- alternatives to the project,
- operating rules for the project,
- Provincial compensation legislation
- any issues stemming from the 1997 flood - the flood that was the catalyst for the current floodway expansion. In doing so it excludes any discussion of the cumulative effects of the project.

This is the only statement CEC has released, to our knowledge, stating issues that were to be included or excluded. CEC's exclusion of these factors is consistent with the environmental assessment approach presented by the proponent. The proponent has stated and prepared its EIS on the basis that it would not be considering the cumulative effects of their proposal in combination with the existing floodway because of an erroneous conclusion that the existence of the present floodway constitutes part of the baseline environmental conditions.

The basis for these CEC exclusions as presented on 1 June was the opinion that these issues were beyond the mandate of the commission's enabling legislation. I suggested that since these items were well within the Provincial legislation they should also be within the mandate of this commission. Indeed, the Terms of Reference for the CEC Public Hearings (Doc 5 - September 2003) state that the "assessment for the project will be required pursuant to the requirements of the *Canadian Environmental Assessment Act*." They go on to indicate that the CEC hearings shall consider "potential environmental, socio-economic and cultural effects of the construction and operation of the Red River Floodway Expansion Project."

9-62

31 January 2005

Page 3

NRAC is not alone in this interpretation that under these terms of reference the CEC hearings should include, indeed focus on, exactly the issues that the CEC has excluded. The Honourable Andy Scott, then Minister of State (Infrastructure) informed NRAC (Doc 6 – Scott 21 May 2004) that this cooperative environmental assessment will “address the requirements” of the *Canadian Environmental Assessment Act (CEAA)* including:

- the scope of the project and its assessment,
- the factors to be considered,
- opportunities for public participation,
- requirements for mitigation and monitoring, as well as
- follow-up and reporting.

Mr. Scott further noted that a federal assessment must consider the effects of the operation of the expanded floodway including the effects of any such change on health and socio-economic conditions as well as the requirement for mitigation of these effects.

The Honourable Stan Struthers, Minister of Conservation noted (Doc 7 – Struthers 8 Oct 2004) that the current process has been designed to meet the legislative requirements of both the Manitoba Environment Act and CEAA.

That appears to be the opinion of the Honourable Steve Ashton Minister of Water Stewardship who told NRAC (Doc 8 - Ashton 9 June 2004) that Manitoba and Canada are “fully committed to a comprehensive, inclusive and independent environmental approval process...”

NRAC can not speak to the independence of the approval process but the CEC hearings are neither comprehensive nor inclusive. The exclusion of basic issues renders the CEC assessment inappropriate and insufficient to fulfill information needs under CEAA and can only lead to a federal panel.

Finally, if these ministerial interpretations were not enough, on 29 January 2005 it became public information that the City of Winnipeg and several rural municipalities consider the CEC review to be too narrow in focus (Doc 9 – Winnipeg Free Press). These communities, including the sole beneficiary - Winnipeg, were critical of the CEC decision to exclude several key issues, including a consideration of cumulative effects.

If this were simply a failure to meet obscure legislated needs, I wouldn't be here. The issues being ignored by the CEC review are paramount to that portion of the public who live upstream of Winnipeg. It is clear from history and from the Project design that upstream areas – read people – are to be flooded by the new floodway. The environmental review as envisaged by CEAA is exactly the forum for public discussion of the impacts of this flooding and it is that discussion CEC has thwarted.

EIS

Virtually all the issues upstream residents have with the EIS have been raised by other bodies, most notably by Transport Canada, Environment Canada, Health Canada, Infrastructure Canada and Public Works Canada. In general they relate to incomplete or inappropriate analysis.

Health Canada's comment on the EIS definition of significance applies to the whole EIS. HC said (Doc 10 - HC Response to EIS 15 Oct 2004):

“Its [the definition of significance] is biased towards highlighting the benefits and minimizing adverse impacts. The methods of application of criteria for determination of significance by the authors favours the omission of important information by considering a subset of only three of the entire list of criteria for determination of significance.” (page 4 of 8)

31 January 2005

Page 4

Cumulative effects

The EIS pays lip service only to the assessment of cumulative impacts.

The Proponent, Manitoba Floodway Authority, maintains the existing floodway and its mode of operation, ancillary flood control structures west of Winnipeg, and Winnipeg's infrastructure are static features of the baseline environment from which expansion can be assessed. MFA interprets this to mean that the expanded floodway has no impacts because all the nasty things derive from the existing floodway. This is a simple dodge to avoid dealing with those nasty bits - within cumulative effects assessment. If one were to take this argument to its absurd limits - there would never be a need for a cumulative effects assessment since all past projects and activities would become part of the existing environment.

The MFA dodge does not withstand any reasonable scrutiny. There are only two options for considering the existing floodway: either

1. it ceases to exist when it is replaced with a new, wider floodway, or
2. it continues to exist somehow along side and complementary to the expanded part of a floodway.

If reason prevails and the expanded floodway is seen as replacing the existing floodway, then all environmental impacts arise from the expanded floodway and must be included in any environmental assessment.

If reason does not prevail and we accept the idea that one would be able to see a division between the existing and expanded floodway and to ascribe various impacts to the original and expanded components, then the existing floodway and its operation fall squarely under the requirement to examine the "cumulative environmental effects that are likely to result from the project in combination with other projects or activities that have been or will be carried out."

Similarly the Shellmouth Dam and Portage Diversion are dismissed because the expanded floodway does not impact on them. But that dam and diversion impact on the need for, and operation of, an expanded floodway. Winnipeg's infrastructure is entirely ignored although changes are clearly in the planning stages - "projects that will be carried out" - and will impact on the need for and operation of an expanded floodway. Summer operation is driven entirely by current weaknesses in this infrastructure and clearly falls under a consideration of alternatives to summer operation of an expanded floodway.

The existing rules of operation state specifically that upstream properties shall be flooded both during some spring floods and during summer operations. Ignoring, for the moment, legal questions about this premeditated assault, the rules of operation are the direct cause of environmental impacts on people living upstream. The rules were changed in 1999/2000 to further restrict flows through Winnipeg and the effect of that change in light of a wider floodway needs to be assessed. But on top of all this, the province considered these "rules" to be no more than guidelines (Doc 11 - Bowering) meaning there is no statement enforcing how the expanded floodway will be operated. It is unfathomable how an environmental license could be given to a project that has no legal requirement to operate according to prescribed rules, especially one with the stated intent to harm upstream residents. How can one plan mitigation when the operation that causes the impacts is so uncertain?

Section 20 of CEAA requires the responsible federal authority to evaluate any mitigation to ensure it is appropriate and "*shall ...ensure that any mitigation measures ...are implemented.*" (20(2)). The responsible minister can not possibly do that without secure knowledge about how the floodway will be operated.

Exclusion of consideration of the existing floodway and ancillary structures, planned changes to infrastructure, and rules of operation from the EIS contravenes the requirements of CEAA as specified in the Cooperative Environmental Assessment agreement.

9-64

31 January 2005

Page 5

Alternatives

In the Supplementary filing, the MFA says "Physical flood protection in the Valley to the 1 in 700 year peak level is **not likely economically feasible**." (Pg 7-1 emphasis added). Clearly, the possibility of engineered, technical, mitigation for upstream residents was not even considered. Any flood protection system for the Red River needs to benefit all parties affected. The current floodway proposal responds only to the needs of the residents of Winnipeg and purposefully and somewhat callously ignores the parties that have been most affected by flooding in the past and will continue to be in the future. This characteristic was common to the only two proposals that were examined – the current floodway and the Ste. Agathe option.

Mitigation

The MFA relies on the Red River Floodway Act to establish a provincial compensation program for property damage and economic loss resulting from artificial flooding associated with the operation of the Red River Floodway. The government will determine if artificial flooding occurred, how much flooding occurred, what damage resulted, and how much compensation is to be paid to affected parties. The Act would remove or severely restrict any recourse through the courts for affected parties to challenge these provincial actions. In any democracy, the courts are the final arbitrators of any injustice. One has to ask why such a provision would be included in any legislation that is supposedly for the benefit of affected parties.

Aside from being a breach of natural justice, this fox-and-hen house arrangement does not meet the requirements of CEAA. Under CEAA (*Section 20 (2) cited previously*) the federal responsible authority must ensure mitigation measures are appropriate and are implemented but Provincial legislation allows the Lieutenant Governor in Council to make regulations regarding eligibility, appeals and reports (Pg 7-5. Section 7.6 of the SF). In other words, nothing in this legislation is fixed and there is no security offered to those who may be damaged by floodway operation. Clearly the responsible Federal Minister has no control over provincial legislation and can not be assured mitigative measures will be implemented.

From the perspective of the upstream community some of the more obvious environmental impacts of the Red River Floodway include:

- perpetual anxiety about what the next spring or next summer will bring in terms of floodway operation, seen tangibly in marriage break-ups, high blood pressure and moving out of the area;
- perpetual angst that we are less deserving of protection from natural flood levels than people living a few hundred meters to the north;
- perpetual anger that people living upstream are required to sustain emotional, physical and financial damage to the benefit of people protected by the floodway;
- economic losses associated with both natural and artificial flooding;
- physical losses associated with both natural and artificial flooding;
- social disruption associated with both natural and artificial flooding.

One purpose of an environmental assessment under CEAA or under the Canada-Manitoba Agreement is to ensure the proponent has adequately addressed these issues. That is not happening in the current process. To ensure that a credible review of this floodway project is being conducted these minimum standards must be satisfied.

The review would:

- examine the need and purpose for this specific project, including increased flood protection upstream and downstream;
- examine alternatives to its construction and operation;
- examine alternatives to flooding some people to save others;

31 January 2005

Page 6

- examine all cumulative effects including other flood protection structures existing and foreseen, and their operations;
- ensure clear, concise rules of operation with input and buy-in from all affected parties;
- ensure there are clear consequences for breaching those rules that are binding for the duration of the existence of the floodway; and
- ensure negotiated land-use rights which would permit the storage of water on private property.

The CEC and MFA are both guilty of considering only certain aspects of flood protection in southern Manitoba. Certainly the International Joint Commission, which was a major impetus for the floodway proposal, recommended increased flood protection for Winnipeg. But the IJC left no doubt that protecting large urban centers should

"...not affect upstream or downstream flood levels."(page 27). And

"Clearly the protection of Winnipeg must be given a high priority. But it is equally clear that proposals for additional flood protection for the city or alterations to the operating rules for the Winnipeg Floodway must take account of the full economic, social and human costs for other areas that would be affected by such measures. A transparent process of open consultation must be established to ensure that residents of such areas have an opportunity to be an integrated part of any decision-making process." (page 31) (Doc 12).

The present process is not consistent with what IJC envisioned and, as such, is an affront to citizens upstream. Consistent with the IJC recommendations, NRAC has always advocated working in concert with government to ensure the best possible solution for all Manitobans. Unfortunately, the needs of the majority have been given precedence over the needs of the minority of individuals who live upstream of the floodway; the needs of political expediency have been given precedence over comprehensive and inclusive discussions. But the haste to get the shovels in the ground may yet lead to a waste of time and effort - a luxury that none us can afford.

These CEC hearings are too restrictive in scope to cover all the aspects that will need to be covered under CEAA. Even within that narrow scope there are so many omissions in the EIS that CEC could not possibly recommend environmental approval. Should CEC recommend approval, there remains so much uncertainty around operation and mitigation, so many exclusions to cumulative effects, so little attention to alternative structures and operations, and persistent significant public concern, that floodway expansion will still require a comprehensive review through the federal process.

NRAC remains committed to seeing improved flood protection for Winnipeg coupled with increased protection and reduced harm outside the city and stands firm in its resolve to work with government and all affected parties for the mutual benefit of everyone. While NRAC believes that the current CEC review has been prejudiced by the exclusion of the very issues of interest to affected residents, we continue to provide our comments to the PAT and CEAA.

31 January 2005

Page 7

Documents cited

1. Letter from L. Strachan 13 July 2004
2. Letter from NRAC to Min. Ashton 12 August 2004
3. Letter from NRAC to Min. Struthers 19 August 2004
4. Canada-Manitoba Agreement on Environmental Assessment Cooperation
5. CEC Terms of Reference
6. Letter from Min. Scott 21 May 2004
7. Letter from Min. Struthers 8 October 2004
8. Letter from Min. Ashton 9 June 2004
9. Winnipeg Free Press 29 January 2005
10. Health Canada response to TAC
11. Bowering
12. IJC, Living with the Red November 2000, pages 27 and 31.



Conservation

Environmental Stewardship Division
Environmental Approvals Branch

123 Main Street, Suite 160
Winnipeg MB R3C 1A5
CANADA

www.gov.mb.ca/conservation/envapprovals

Fax: (204) 945-5229

July 13, 2004

Dr. Robert Stewart
Chair
North Ritchot Action Committee
Suite 261
32-2855 Pembina Highway
Winnipeg MB R3T 2H5

Dear Dr. Stewart:

**Re: Clarification of Cooperative Environmental Assessment Process –
Floodway Expansion Project (Our File: 4967.00)**

Thank you for providing me with a copy of your July 8, 2004 letter to the Honourable Andy Scott regarding the floodway expansion project. I would like to clarify some information in the fourth item of your letter concerning the cooperative environmental assessment process.

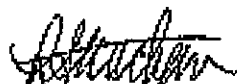
The cooperative assessment process is being administered by a Project Administration Team (PAT) representing federal and provincial agencies with a regulatory interest in the project. The Manitoba Environmental Approvals Branch is the lead party to the cooperative environmental assessment, not the Clean Environment Commission.

The Clean Environment Commission (CEC) will be conducting a public hearing into the project, with Terms of Reference as described in the enclosed document (available on the CEC's website at www.cccmanitoba.ca/files/Terms2.pdf). The hearing is one component of the process administered by the PAT. The PAT is responsible for conducting an assessment that meets the requirements of the Canadian Environmental Assessment Act and the Manitoba Environment Act.

.../2

As you will be aware from a review of the February 5, 2004 document "Guidelines for the Preparation of an Environmental Impact Statement for the Red River Floodway Expansion Project", all of the assessment considerations listed in your letter are part of the cooperative environmental assessment, and are expected to be addressed in the forthcoming Environmental Impact Statement for the project.

Yours truly,



Larry Strachan, P. Eng.
Director
Environmental Approvals
Chair, Project Administration Team

Enclosure

- c. Public Registries – Main, Eco-Network, Centennial, Legislative Library, Selkirk and St. Andrews Regional Library, Jake Epp Public Library
PAT members:
Keith Grady, Infrastructure Canada
Beth Thomson, Fisheries and Oceans Canada
Dan McNaughton, Canadian Environmental Assessment Agency
Gerry Tessier, Canadian Environmental Assessment Agency
Trent Hreno, Environmental Approvals
Bruce Webb, Environmental Approvals

12 August, 2004

Honourable S. Ashton
Minister of Water Stewardship
Legislative Building
Winnipeg, MB
R3C 0V8

Dear Minister Ashton,

Previously (10 April 2004) we outlined our concern that the Manitoba Floodway Expansion Authority and the province are risking immense cost redundancies and time delays that could be avoided by holding a joint panel for the environmental assessment of the floodway expansion with well-funded participation of involved residents. In your reply (9 June 2004) you reassured us that Manitoba and Canada are "fully committed to a comprehensive, inclusive and independent environmental approval process..." The Terms of Reference for the CEC Public Hearings (dated September 2003) clearly state that the "assessment for the project will be required pursuant to the requirements of the *Canadian Environmental Assessment Act*." They go on to indicate that the CEC hearings shall consider "potential environmental, socio-economic and cultural effects of the construction and operation of the Red River Floodway Expansion Project." The process, however, is not working because of ambiguous and contradictory information with respect to CEC's role in considering issues of concern under CEAA and artificial time constraints.

CEC held a "participant's meeting" in Winnipeg on 1 June at which several community groups were in attendance. No official minutes were kept though NRAC recorded proceedings. The CEC chair identified several items that were not in his terms of reference for the CEC hearings. Items said to be beyond the scope of the CEC hearings were project justification, alternative solutions, operating rules, legislation for compensation and issues arising from 1997, although he later conceded that some aspects of compensation might be examined. Since compensation is a major part of mitigation, it is unsettling that CEC might ever consider excluding it from the review. The remaining exclusions must also be part of any "comprehensive" review and are clearly required by both federal and provincial legislation. All of these issues have been central to the input we have provided through various fora. For example, when the CEC held public meetings into the SAFE report we questioned the lack of consideration of alternative solutions not too mention raising issues about compensation and operating rules. These are not new issues.

The "Cooperative Environmental Assessment Process" developed by Canada and Manitoba (July 2004) stipulates the environmental review will include "the factors listed in subsections 16(1) and 16(2) of the federal act." As you are aware, these sections specifically note cumulative effects. Operation of the expanded floodway is included in the definition of "project" under the federal act and of "development" under the provincial act. These aspects are properly included in the "Cooperative Environmental Assessment Process" (July 2004) but were excluded by CEC. Confounding further the consideration of cumulative effects is the fact that Winnipeg's flood-protection infrastructure (flood pumping stations) has been specifically removed from the floodway expansion project. It may be removed from the project design but it can not be removed from the review and still have the review comply with section 16(1)(a) of the federal act. It remains unclear what limited aspects of the provincial and federal acts the CEC will consider in its' hearings.

The consequence of not including these issues in the scope of the CEC hearings process is that the public is left with the impression that there are going to be two EA processes, one to consider provincial issues and one to consider federal issues. Indeed by conducting a provincial hearing that considers only provincial issues the Federal Ministers' options for later review are limited since the federal minister will be obligated to hold federal hearings that are properly comprehensive. Both governments will be criticized for duplication and wasting time and money.

One apparent conclusion of the 1 June meeting was that the Chair of CEC offered to look into the possibility of a single technical team to support participants. Participants would draft the terms of reference and share the resource. It was our understanding that, if this were feasible, the Chair would let us know how to bring it about. While groups exchanged ideas at this meeting, any merging of proposals had to await the decision about a common technical team. Instead, a letter from CEC (8 July 2004, attached) informed participants that a technical advisory group would be created to receive instruction from CEC and to report to CEC, although participants are allowed to submit queries through CEC and receive answers through CEC. While it is now not uncommon for the CEC to hire some of their own experts to help the "lay panel" it is unclear if that sort of technical support and this team are one and the same. The nature and mandate of this advisory team is not specified but that is largely irrelevant. It is simply untenable that the CEC would coordinate and orchestrate "independent" technical on behalf of both the participants and the CEC.

This same letter from CEC (8 July 2004) advised participants to submit revised proposals to reduce overlap by 2 August. This request posed two problems: how to revise the objectives and methods in the proposals and how to orchestrate various groups during summer vacation months. CEC did not indicate which proposals were considered by CEC to overlap and in what areas they overlapped. Most granting agencies will work with proponents to reduce redundancy and increase efficiencies but a request for some advice on coordinating proposals was denied and the very need for revisions undermined (email 28 July 2004, attached). The project design has changed significantly since the original proposals were submitted. The CEC has presented a list of exclusions that encompasses issues included in its terms of reference. The CEC has just created a technical advisory team that has ill-defined duties. In the face of all these changes it is not possible to coordinate several groups without some additional guidelines. And, of course, because CEC has a pivotal role in the provision of funds to participants the resultant confusion makes it unclear what criteria CEC will use in making its funding recommendations.

This ill-conceived request for revised proposals underscores the misalignment of the time-table set for various components of the environmental review. Obviously a great deal of work would be required to revise and coordinate proposals, even if the intent and direction of CEC were clear. The deadline for revised proposals for the CEC was 2 August with meetings planned for 18 and 25 August. A two-week deadline during holiday season and insistence on meeting in mid-August is, at best inconsiderate, but smacks of a "bum's rush." CEC has had our proposals for 8 months. The project is described in terms of centuries (flood return frequency) and construction will take several years to complete. What does scheduling these important events in August accomplish except to reduce participants' input? If nothing else, participants' funding and the timetables of the departments' EIS review and CEC's review require harmonization.

The EIS was released on 4 August with an advertised review period of 60 days. If CEC can convene all interested parties in late August it can, at best, deliver its funding recommendations by early September. The earliest participants could hope to hire experts to assist their review of the EIS would be mid-September, 2-3 weeks before the review period ends. The Terms of Reference (September 2003) stipulate that the CEC "...shall consider the Environmental Impact Statement and public concerns..." How is the public to use participant's funding to formulate those concerns in the time available?

In conclusion, there is considerable confusion arising from the CEC appointment of a technical advisory committee; from contradictions between announced exclusions and the terms of reference; from CEC's exclusion of requirements under CEAA; from what the CEC Chair said the hearings are to cover and funding requirements to allow the public to comment intelligently on the EIS; and from CEC's subsequent request for re-submission of proposals. This is all confounded by unrealistically short and incongruent schedules developed without consulting stakeholders. We believe that a joint provincial-federal review panel is the most effective and efficient approach to

this environmental assessment, in terms of both time and money. The outcome of the current flawed process in light of the strong public concern can only be a federal panel. It serves no one's interest to squander time and money only to go to another panel when time and money would be more effectively put to a properly paced joint panel now. We respectfully request that you terminate the current CEC review and call for a joint panel with adequate time and funds for meaningful involvement by stakeholders.

We would welcome a chance to discuss this more fully with you, although, as you may anticipate, business and family commitments take key members of our committee out of the province until September. Please do not hesitate to contact Fred Hnytka at (204) 275-8754 after 15 August. I will be back after 2 September.

Sincerely,

Dr. Robert Stewart
Chair, North Ritchot Action Committee

Cc

Mr. T. Sargeant, Chair Participant Assistance Committee/Chair CEC
Hon. J. Godfrey, Minister of State Infrastructure and Communities
Hon. S. Dion, Minister for the Environment
R. Connelly, Canadian Environmental Assessment Agency
D. McNaughton, Canadian Environmental Assessment Agency
L. Strachan, Chair, Project Administration Team/Director, Environmental Approvals
M. Taillieu, MLA Morris
Council, RM Ritchot
Council, RM of Springfield
V. Toews, MP Provencher
M. Fox, Sierra Legal Defense Fund
Association 768
Coalition for Flood Protection North of the Floodway
Cooks Creek Conservation District
Manitoba Wildlands
Peguis Indian Band
Red River Valley Group
Ritchot Concerned Citizens Committee
Rivers West - Red River Corridor Assoc. Inc.
Save Our Seine

19 August, 2004

Honourable Stan Struthers
Minister of Conservation
Legislative Building
Winnipeg, MB
R3C 0V8

Dear Minister Struthers,

In a previous letter to your colleague Minister Ashton, copied to you, (10 April 2004) we outlined our concern that the Manitoba Floodway Expansion Authority and the province are risking immense cost redundancies and time delays that could be avoided by holding a joint panel for the environmental assessment of the floodway expansion with well-funded participation of involved residents. In Minister Ashton's reply (9 June 2004) he reassured us that Manitoba and Canada are "fully committed to a **comprehensive, inclusive and independent** environmental approval process...". We are now writing to you with grounds to question the nature of that approval process.

With regard to being comprehensive, the Terms of Reference for the CEC Public Hearings (dated September 2003) clearly state that the CEC hearings shall consider "potential environmental, socio-economic and cultural effects of the construction and operation of the Red River Floodway Expansion Project." However, at a participants' meeting convened by the CEC on 1 June at which several community groups were in attendance, the CEC chair identified several items that were not in his terms of reference for the CEC hearings. Items said to be beyond the scope of the CEC hearings were the need for the project, alternatives to the project, the operating rules for the floodway, the proposed legislated compensation package, the cumulative effects of the existing floodway along with the effects of the expansion, and any issues arising from 1997 flood, although he later conceded that some aspects of these might be examined to some as-of-yet undetermined extent. Clearly, such a constrained review hardly qualifies as being "comprehensive". These are obviously significant issues required for both the federal and provincial processes and cannot be disregarded in the hearing process. Further confounding the consideration of cumulative effects is the fact that Winnipeg's flood-protection infrastructure has been specifically removed from the current review of the floodway expansion project although it is widely acknowledged as an integral component of the floodway system. All in all it remains quite unclear what limited aspects of the provincial and federal acts the CEC will consider in its' hearings. Again, we must reiterate that it is not only necessary to get the environmental approval process done, but to do it thoroughly and properly. The alternative is to have to do it again – either through the provincial or federal process. The waste of time, money and effort is in no one's interest. For that reason we again urge your department and the federal government to hold joint federal/provincial hearings that would satisfy both processes and many of our community's concerns with the thoroughness of the process.

With regard to being independent, at the same aforementioned CEC meeting, in response to multiple requests for independent technical/engineering support by the various groups, the Chair of CEC offered to facilitate providing independent technical

support that would be amenable to all of the groups. Participants would draft the terms of reference and share the resource. It was our understanding that, if this were feasible, the Chair would let us know how to bring it about. That vision was shared with us in a letter dated 8 July 2004 (attached) which informed us that a technical advisory group would be created to receive instruction from CEC and to report to CEC, with participants vetting their queries through the CEC and receiving responses through CEC. While it is now not uncommon for the CEC to hire some of their own experts to help the "lay panel" it is unclear if that sort of technical support and this team are one and the same. The nature and mandate of this advisory team is not specified but that is largely irrelevant. It is simply untenable that the CEC would coordinate and orchestrate an "independent" technical advisory group on behalf of both the participants and the CEC. The solution offered might be expedient but it is certainly not independent and certainly not consistent with the normal operation of environmental hearings in all but third world nations.

With regard to being inclusive, within the same July 8 letter from the CEC, participants were advised to submit revised proposals to reduce overlap by 2 August. This request posed two problems: how to revise the objectives and methods in the proposals and how to orchestrate various groups during the summer vacation months. CEC did not indicate which proposals were considered by CEC to overlap and in what areas they overlapped. Most granting agencies will work with proponents to reduce redundancy and increase efficiencies but a request for some advice on coordinating proposals was denied and the very need for revisions undermined (email 28 July 2004, attached). At the same time we were notified that the EIS would be available by the same date of August 2 and that the review period would be restricted to 60 days. Needless to say it is very difficult to digest and critique thousands of pages of technical reports at the best of times, but during the summer, without technical or financial support, by otherwise employed volunteers, it is nearly impossible. What does scheduling these important events in August accomplish except to reduce participants' input? Our funding submissions were provided in the latter part of 2003 and funding is only now being considered? If the intent of the approval process was ever to be truly inclusive then I would suggest that some accommodation of the review period and the participant funding process would be in order.

In conclusion, there is considerable confusion regarding the proposed "cooperative assessment process and the coordination of federal and provincial reviews. It is our contention that only a federal/provincial panel can address the issues that we have raised. There is also considerable concern over the proposed "comprehensive, inclusive and independent" environmental review process from the examples outlined above. The outcome of the current flawed process, in light of the strong public concern, can only lead to a federal panel – a panel that could conservatively add at least a year to the review process. This is neither the time nor place to squander time and money on a faulty process only to go to another panel at a later date. Again, we respectfully request that you terminate the current CEC review and call for a joint panel with adequate time and funds for meaningful involvement by stakeholders.

We have endeavored to work cooperatively with your government and persevered over the last few years in anticipation of having our say in legitimate hearings - hearings that

would lead to doing the right thing for all Manitobans. That is our vision of being "inclusive".

We would welcome a chance to discuss this more fully with you, although, as you may anticipate, business and family commitments take key members of our committee out of the province until September. In the meantime, please do not hesitate to contact Fred Hnytka at (204) 275-8754 after 15 August. I will be back after 2 September. We look forward to a favourable response from you.

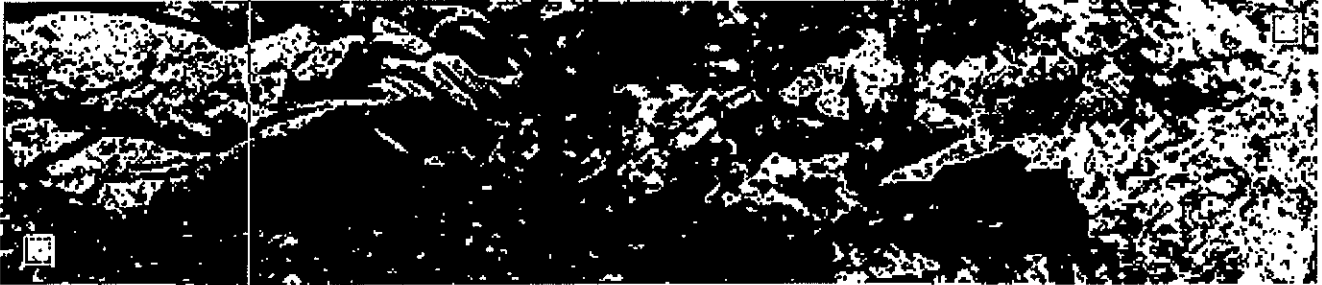
Sincerely,

Dr. Robert Stewart
Chair, North Ritchot Action Committee

Cc

Mr. T. Sargeant, Chair Participant Assistance Committee/Chair CEC
Hon. J. Godfrey, Minister of State Infrastructure and Communities
Hon. S. Ashton, Minister of Water Stewardship
Hon. S. Dion, Minister for the Environment
R. Connelly, Canadian Environmental Assessment Agency
D. McNaughton, Canadian Environmental Assessment Agency
L. Strachan, Chair, Project Administration Team/Director, Environmental Approvals
M. Taillieu, MLA Morris
Council, RM Ritchot
Council, RM of Springfield
V. Toews, MP Provencher
M. Fox, Sierra Legal Defense Fund
Association 768
Coalition for Flood Protection North of the Floodway
Cooks Creek Conservation District
Manitoba Wildlands
Peguis Indian Band
Red River Valley Group
Ritchot Concerned Citizens Committee
Rivers West - Red River Corridor Assoc. Inc.
Save Our Seine

**Cooperative Environmental
Assessment Process Concerning
The Red River Floodway
Expansion Project**



developed by

Canada

as represented by

**Fisheries and Oceans Canada
& Infrastructure Canada**

and

Manitoba

as represented by

**Manitoba Conservation
Environmental Approvals
Branch**

July 2004

**Manitoba
Conservation**



Canada



THE PROJECT

The Manitoba Floodway Expansion Authority (the Proponent) and the Government of Manitoba are proposing to expand and operate the Red River Floodway located adjacent to the City of Winnipeg in southern Manitoba. The Red River Floodway Expansion Project (the Project) involves: site preparation (including demolition of some existing structures), modification of the existing Red River Floodway channel and some existing infrastructure, construction of new structures, and operation of the expanded floodway.

The components of the Project are described in further detail in the report *Red River Floodway Expansion Project Description, July 2003* (the Project Description). Components of the Project as identified by the Manitoba Floodway Expansion Authority are:

1. expanding the existing floodway channel;
2. increasing the freeboard of (raising) the existing West Dike;
3. modifying the bridges over the existing floodway channel;
4. enlarging the existing floodway outlet structure;
5. fortifying and protecting the riverbank at and downstream of the floodway outlet;
6. replacing drainage structures, where necessary, along the east bank of the floodway channel;
7. replacing the inlet and outlet structures at the Seine River Inverted Siphon;
8. replacing the Winnipeg Waterworks Aqueduct under the floodway;
9. extending a number of electrical transmission lines that cross the floodway channel;


10. replacing a number of miscellaneous infrastructure crossings of the channel;
11. improving the existing Floodway Inlet Control Structure;
12. incorporating recreational facilities into the expansion plans, to the maximum extent practical; and
13. operating the floodway to control water levels in the river channel through Winnipeg.

The Red River Floodway and its related infrastructure match the description of a physical work as set out in the *Canadian Environmental Assessment Act* (the federal Act). There are federal decisions required for the Red River Floodway Expansion Project to proceed (described below) and, therefore, the expansion project will be the subject of an environmental assessment (screening) under the federal Act.

The expansion of the existing Red River Floodway matches the description of a project identified as a Class 3 development in the Classes of Development Regulation under *The Environment Act* (the provincial Act). Accordingly, the Project will require a valid and subsisting licence under the provincial Act prior to the commencement of its construction and operation.

ROLES AND RESPONSIBILITIES

The Proponent filed an Environment Act Proposal with the Environmental Approvals Branch of Manitoba Conservation on August 6, 2003, in accordance with the provincial Act, in order to initiate the environmental assessment process (EA process).



Fisheries and Oceans Canada (DFO) has statutory responsibilities pursuant to subsection 35(2) of *The Fisheries Act* with respect to some portions of the Project and is therefore a responsible authority under the federal Act in relation to the environmental assessment required for the Project.

Infrastructure Canada, on behalf of the Government of Canada, is considering providing funding that is intended to allow the Project to proceed. Accordingly, Infrastructure Canada is also a responsible authority under the federal Act.

Approval under the Navigable Waters Protection Act will likely be required in order for the project to proceed with construction. Accordingly, Transport Canada (Marine Safety Branch) is also likely to be a responsible authority under the federal Act.

The Government of Manitoba has responsibilities regarding the assessment of the environmental impacts of the Project prior to making the licensing decision under the provincial Act. The Minister identified in the provincial Act will cause to be conducted a public hearing by the Clean Environment Commission regarding the environmental impacts of the Project.

Canada and Manitoba signed, on May 8, 2000, the *Canada - Manitoba Agreement on Environmental Assessment Cooperation* (the Agreement). The Parties agree that a cooperative environmental assessment, as is described below and to be led by the Government of Manitoba, shall be undertaken for the Project.

DEFINITIONS

For the purposes of this document:

- ◇ "screening" has the same meaning as set out in section 2 of the federal Act;
- ◇ "screening report" means the report to be prepared in accordance with paragraph 18(1)(b) of the federal Act;
- ◇ "guidelines for the preparation of an environmental impact statement" means the guidelines that are cooperatively prepared by the Project Administration Team to provide guidance to the Proponent in terms of gathering information about the Project and documenting the results of the environmental assessment;
- ◇ "Parties" means the Government of Canada and the Government of Manitoba;
- ◇ "Project Administration Team" has the same meaning as is set out in the Definitions section of the Agreement;
- ◇ "responsible authority" has the same meaning as set out in section 2 of the federal Act; and
- ◇ "Technical Advisory Committee (TAC)" means an advisory committee to the Project Administration Team consisting of members representing federal and provincial departments and agencies participating in the cooperative environmental assessment.

PURPOSE

The purpose of this document is to set out the steps to be taken to ensure the cooperative administration of the environmental assessment of the Project. The Parties intend to cooperate in the EA process in a manner that meets the requirements of both Canada and Manitoba.

Manitoba will administer its environmental assessment process in accordance with the conditions of the *Canada - Manitoba Agreement on Environmental Assessment Cooperation*.

PROJECT ADMINISTRATION TEAM

Manitoba will establish and chair a Project Administration Team (PAT). Membership on the PAT will include representative(s) from Fisheries and Oceans Canada, Infrastructure Canada, the Canadian Environmental Assessment Agency, Transport Canada (likely) and the Government of Manitoba.

The PAT will be responsible for making required decisions during the administration of the cooperative environmental assessment for the Project. The administration of the cooperative environmental assessment will include activities set out in further detail below.

THE ASSESSMENT PROCESS

An initial project proposal, as prepared by the Proponent, will be provided to the Director of the Environmental Approvals Branch of Manitoba Conservation, along with an Environment Act Proposal. The information received from the Proponent will be shared broadly with the public, technical advisors in the provincial administration, and the Prairie Region Office of the Canadian Environmental Assessment Agency. There will be a thirty-day public review period provided by Manitoba Conservation in this stage of the process.

Once constituted, the PAT, after considering the Draft *Guidelines for the Preparation of an Environmental Impact Statement for the Red River Floodway Expansion Project* and any comments regarding the Project from the public, Aboriginal persons, and the Technical Advisory Committee, will determine the scope of the necessary cooperative environmental assessment.


For the purpose of complying with the federal requirements, the assessment will include consideration of the factors listed in subsections 16(1) and 16(2) of the federal Act, and of any other matters relevant to the environmental assessment of the Project that the responsible authorities may require to be considered in accordance with paragraph 16(1)(e).

The environmental assessment will include consideration of all matters required under the provincial Act, and any factors that are required by the Government of Manitoba as set out by the Director of Environmental Approvals.

The Chairman, on behalf of the PAT, will, after the PAT has considered and acted appropriately upon any comments received from the public, Aboriginal persons, and members the Technical Advisory Committee during a thirty-day review period, forward to the Proponent the finalized *Guidelines for the Preparation of an Environmental Impact Statement for the Red River Floodway Expansion Project* which will set out the final scope of the required cooperative environmental assessment.

Upon completion of the environmental assessment, the Proponent will submit to the Chairman of the PAT an environmental impact statement for review and comment by the public, Aboriginal persons and the TAC.

The Chairman of the TAC will provide, in a timely manner, copies of the environmental impact statement (EIS) to the members of the TAC and make it conveniently available to the public and Aboriginal persons. TAC members will provide written comments regarding the environmental impact statement for the Project to the Chairman of the TAC within a sixty-day timeframe.



The public will be formally invited to provide comments on the project, the environmental impact statement or any concerns they have relating to the Project, to the Chairman of the PAT within the same sixty-day review period.

The Chairman of the PAT will, at the conclusion of the 60-day review period, provide, on behalf of the PAT, written comments regarding the draft EIS to the Proponent including any requirements for additional information that would be needed to complete the environmental assessment documentation. In the event additional environmental assessment information is provided by the proponent, a thirty-day review period will be provided to assess the information.

At the conclusion of the review noted above, and after the resolution of any identified information deficiencies, the PAT will determine the completeness and acceptability of the environmental assessment information. Directly following this determination, notice will be provided to Manitoba's Clean Environment Commission to schedule the necessary provincial hearings.

Manitoba's Clean Environment Commission will convene public hearings regarding the environmental assessment for the Project and provide a report on the conclusions and recommendations reached by the Commission in accordance with terms of reference to be issued by Manitoba's Minister of Conservation.

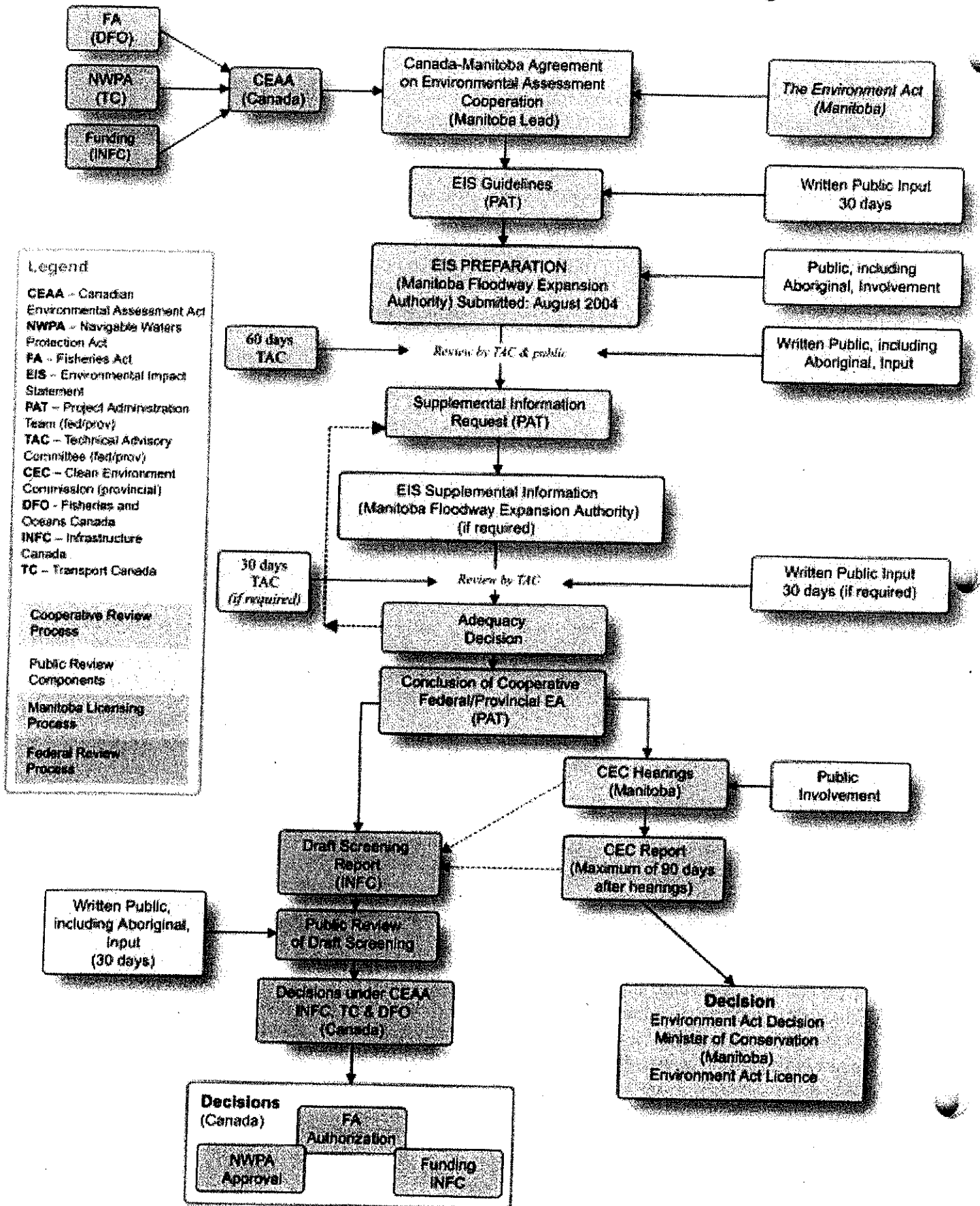
After consideration of the environmental assessment information, input received from the public, Aboriginal persons, and the Clean Environment Commission's report, Fisheries and Oceans Canada, Infrastructure Canada and Transport Canada (likely) will complete their required *Screening Report*.

The completed *Screening Report* shall be made available by Fisheries and Oceans Canada, Infrastructure Canada and Transport Canada (likely) to the public and to Aboriginal persons for review. Public and Aboriginal comment regarding the conclusions, recommendations and any other aspect of the *Screening Report* will be invited over a thirty-day review period. At the conclusion of the review period, the responsible authorities will take the necessary decisions in accordance with section 20 of the federal Act.

The Parties will coordinate, to the extent possible, the timing of their respective environmental assessment decisions and coordinate any public announcement of the decisions.

The anticipated timeframes, that are associated with the various process steps within the control of the federal and provincial administrators of the environmental assessment process, are graphically presented on the attached chart.

Red River Floodway Expansion Project Cooperative Environmental Assessment and Licensing Processes



Terms of Reference

Clean Environment Commission Public Hearing on the Red River Floodway Expansion Proposal

BACKGROUND

On July 28, 2003 Manitoba Conservation received an Environment Act Proposal from the Floodway Expansion Management Authority respecting the proposed Red River Floodway Expansion. A cooperative provincial/federal review of the proposals is underway in accordance with the *Canada-Manitoba Agreement on Environmental Assessment Cooperation*. The review includes the preparation of an Environmental Impact Statement in accordance with Guidelines prepared by Manitoba and Canada and finalized after a public review. Environmental assessment for the project will be required pursuant to the requirements of the *Canadian Environmental Assessment Act*. It was also decided that the review would include a public hearing of the Clean Environment Commission (the Commission).

MANDATE OF THE HEARINGS

The Commission shall conduct a public hearing, in appropriate locations in Winnipeg and rural Manitoba as determined by the Commission, to consider the potential environmental, socio-economic and cultural effects of the construction and operation of the Red River Floodway Expansion Project.

The Commission shall conduct the hearing in general accordance with its *Process Guidelines Respecting Public Hearings* which include procedures for Pre-Hearing Meetings or Conferences and Proprietary Information.

Following the public hearing the Commission shall provide a report to the Minister of Conservation pursuant to Section 7(3) of *The Environment Act*.

The Commission may, at any time, request that the Minister of Conservation review or clarify these Terms of Reference.

SCOPE OF THE REVIEW

For the potential environmental, socio-economic, and cultural effects of the Proposal, the Commission shall consider the Environmental Impact Statement and public concerns, and provide a recommendation on whether an Environment Act Licence should be issued to the Floodway Expansion Management Authority for the Red River Floodway Expansion Proposal.

Should the Commission recommend the issuance of an Environment Act Licence for the Proposal, then appropriate recommendations should be provided respecting:

- Measures proposed to mitigate any adverse environmental, socio-economic, and cultural effects resulting from the Red River Floodway Expansion project and where appropriate, to manage any residual adverse effects; and
- Future monitoring and research that may be recommended in relation to the project.

The Clean Environment Commission's recommendations shall incorporate, consider and directly reflect, where appropriate, the Principles of Sustainable Development and Guidelines for Sustainable Development as contained in *Sustainable Development Strategy for Manitoba*.

September, 2003

Minister of State
(Infrastructure)



Ministre d'État
(Infrastructure)

Ottawa, Canada K1A 0A6

MAY 21 2004

Dr. Robert Stewart
Chair
North Ritchot Action Committee
Suite 261
32-2855 Pembina Highway
Winnipeg, Manitoba
R3T 2H5

Dear Dr. Stewart:

Thank you for your letter of March 11, 2004, also addressed to my colleague the Honourable David Anderson, concerning the environmental assessment of the proposed Red River Floodway Expansion Project (Project) in Manitoba.

Infrastructure Canada and Fisheries and Oceans Canada have determined that before they can respectively decide whether to provide funding or regulatory approval that would enable the Project to proceed, it must first undergo an environmental assessment in accordance with the *Canadian Environmental Assessment Act (the Act)*. The federal authorities have confirmed that a screening level of assessment under the Act is required. In accordance with the Canada-Manitoba Agreement on Environmental Assessment Cooperation, the federal review is proceeding as part of a cooperative environmental assessment involving public hearings of the Manitoba Clean Environment Commission.

The cooperative review process is intended to address requirements of the Act, such as with respect to establishing the scope of the project and assessment, the factors to be considered, opportunities for public participation, and requirements for mitigation, monitoring and follow-up, and reporting. Regarding the concerns raised in your letter about upstream flooding, for example, the federal assessment must, among other things, consider potential environmental effects of the operation of expanded floodway, including the effects of any such change on health and socio-economic conditions. Requirements for mitigation of these and other environmental effects of the Project must also be considered.

The cooperative review that is currently underway is expected to satisfy federal obligations for environmental assessment of the Project. As you indicate, should this not be achieved, further review of the Project will be necessary before any federal authority can take action that would allow it to proceed.

...2

Canada

9-84

I would encourage the North Ritchot Action Committee and other interested stakeholders to participate in the ongoing review process.

I appreciate that you have taken the time to write and share your concerns about this important undertaking. I am forwarding a copy of our correspondence to my colleagues the Honourable David Anderson, Minister of the Environment, and the Honourable Geoff Regan, Minister of Fisheries and Oceans, so that they too are aware of your views.

Yours sincerely,



The Honourable Andy Scott, P.C., M.P.
Minister of State (Infrastructure)

c.c.: The Honourable David Anderson, P.C., M.P.
The Honourable Geoff Regan, P.C., M.P.



MINISTER OF CONSERVATION

Legislative Building
Winnipeg, Manitoba, CANADA
R3C 0V8

OCT - 8 2004

Dr. Robert Stewart
Chair
North Ritchot Action Committee
35-2855 Pembina Highway, Suite 261
Winnipeg MB R3T 2H5

Dear Dr. Stewart:

Thank you for your letter of August 19, 2004 concerning the environmental assessment process for the expansion of the Red River Floodway. In your letter you identified several concerns with the current cooperative environmental assessment process being led by Manitoba, and suggested a federal/provincial panel review of the project as an alternative process.

Both Canada and Manitoba have committed to the current process, which has been designed to meet the legislative requirements of both the Manitoba Environment Act and the Canadian Environmental Assessment Act. Both governments are satisfied that the cooperative environmental assessment process will provide the information necessary for environmentally sound and timely decision making under both the federal and provincial acts.

The Manitoba Clean Environment Commission has been directed to consider the Environmental Impact Statement and public concerns on the project. The Project Administration Team administering the environmental assessment and review process for the project issued Guidelines for the Preparation of an Environmental Impact Statement for the Red River Floodway Expansion Project in February, 2004. The Guidelines are comprehensive and cover the issues of interest to your organization. It is my expectation that the Commission will undertake a thorough and independent review of the project as specified in its Terms of Reference.

Yours sincerely,

Stan Struthers
Minister of Conservation

c. Honourable Steve Ashton
Terry Sargeant



MINISTER OF WATER STEWARDSHIP

Legislative Building
Winnipeg, Manitoba, CANADA
R3C 0V8

JUN 09 2004

Dr. Robert Stewart
North Ritchot Action Committee
Suite 261, 32- 2855 Pembina Highway
Winnipeg MB R3T 2H5

Dear Dr. Stewart:

I would like to thank you for your letter dated April 10, 2004 regarding the environmental process for the floodway expansion project. Let me assure you that Canada and Manitoba are fully committed to a comprehensive, inclusive and independent environmental approval process for this important project.

The floodway expansion project requires the approval of both the federal and provincial governments before construction can proceed. Both levels of government have agreed on a harmonized method of conducting the environmental assessments required. This process includes public hearings conducted by the Clean Environment Commission (CEC) followed by a screening by all relevant federal departments.

The agreed upon process is consistent with requirements under federal and provincial legislation and the Canada-Manitoba Agreement on Environmental Assessment Cooperation. Both levels of government also have extensive experience with the harmonization process with previous approvals including the Tolko forest management operation in The Pas and the expansion of the city of Portage la Prairie wastewater treatment plant. As a result, Canada and Manitoba have deemed this approach as the most appropriate way to proceed. As the project proponent, the Manitoba Floodway Expansion Authority (MFEA) respects their judgment and expertise and is committed to working to ensure that all legislative and regulatory requirements are satisfied.

To support this process, MFEA has commissioned an independent, environmental impact assessment to identify and address any potential environmental impacts related with floodway expansion. To help identify public concerns related to the project, MFEA has also undertaken a comprehensive public consultation process over the last five months. This process has consisted of two rounds of public consultation with

public open houses, meetings with local governments, special interest organizations and other interested parties. As this process proceeds and a third round of consultation is undertaken, MFEA will continue to listen to the public and work to address their concerns. In addition, MFEA will continue to work with their environmental consultants and federal and provincial government departments to address any and all issues associated with the project.

The Red River Floodway expansion project will increase flood protection for the Winnipeg area. A comprehensive environmental approval process is critical to ensuring that, in addition to increasing flood protection, the floodway expansion project will result in long lasting benefits for the people of Manitoba. I thank you for your interest and input on this important infrastructure project.

Sincerely,



Steve Ashton
Minister of Water Stewardship

cc. N. Brandson, D.M.

Floodway upgrade delay feared

Concerns of city, RMs could stall expansion

Sat Jan 29 2005

By Dan Lett

EXPANSION of the Red River Floodway could be delayed by a year and costs could go up by more than \$30 million if a last-minute bid to delay environmental hearings into the project is successful.

Clean Environment Commission (CEC) hearings into the floodway expansion were to begin Feb. 14, but Winnipeg and five other capital region municipalities have asked for a postponement that would allow them to meet with the federal and provincial governments and air a long list of grievances related to the existing floodway.

However, the head of the tri-level authority overseeing the \$600-million floodway expansion charged that the municipal leaders are trying to "hold the project hostage" to gain leverage on a wide variety of capital funding issues unrelated to the floodway.

Fears about a possible delay in floodway expansion were raised on the same day that Manitoba's senior river forecaster warned the risk of flooding from the Red River is high this spring, and one more major snowstorm could cause a flood similar to the one that hit the province in 1997. The expansion of the floodway is designed to prevent a repeat of the 1997 flood, which caused more than \$450 million in damage throughout southern Manitoba. Ernie Gilroy, the floodway authority's chief executive officer, said a delay of up to six weeks in starting the hearings would likely spark a one-year delay in construction and drive up costs over the life of the project, which is scheduled to be completed in 2009.

"This is, quite frankly, irresponsible and dangerous," Gilroy said. Winnipeg Mayor Sam Katz, Selkirk Mayor David Bell and the reeves of the rural municipalities of East St. Paul, Springfield, St. Andrews and St. Clements sent a letter to the CEC on Wednesday asking for a four- to six-week delay in the hearings.

The letter included a list of 12 concerns related to the existing floodway or the impact from an expanded channel. They include effects on Selkirk's sewer system, the City of Winnipeg's primary dike system, contamination and interference with local aquifers that connect with the floodway, riverbank erosion, financial compensation and "cumulative impact from the initial floodway construction."

Many of these issues were raised during a series of public meetings that preceded a decision by the CEC and federal environment department on when to start hearings. The joint federal-provincial panel decided to exclude all issues related to the original floodway construction, which occurred more than 40 years ago.

Despite the decision by the panel that effects of the original floodway construction were off the table, the municipal leaders believe the scope of the review needs to be broadened. Katz was out of the country on a trade mission to the Philippines yesterday, but a spokesman denied the last-minute bid was all about politics.

"We don't desire to put the construction behind a year," said Greg Burch, spokesman for Katz. "I don't think what we're doing should put the floodway construction back any further." Burch said the signatories to the letter want an assurance their issues will be dealt with, either in direct talks

with the province or at the CEC hearings. As long as the issues will be addressed, there would be no reason to delay the hearings at all, he said.

Gilroy said the municipalities are asking for a complete environmental assessment of the original floodway project, which would require several months of work by the CEC and mean excavation could not begin this year.

The six-week delay in the hearings, along with the lead time required for tendering contracts, would likely push heavy construction on the project back to late September, he said. It would be impossible to get any contractor to start that late in the construction season, and likely require work to be put off until the following spring, he added.

With the normal inflation rate in the heavy-construction sector, that would likely add another \$30 million to the project by the time it is finished, Gilroy said.

Riva Harrison, spokeswoman for Premier Gary Doer, said the province does not believe the grievances listed in the letter have any direct connection to the floodway expansion. In particular, Harrison said the province is puzzled about Katz's involvement in this political strategy, given that Winnipeg stands to benefit the most from the expanded floodway. "Frankly, it's quite shocking that the city would push for a delay and jeopardize a \$600-million capital project designed to further protect Winnipeg and the capital region from serious flooding," Harrison said.

dan.lett@freepress.mb.ca

Canadian Environmental
Assessment Agency
Winnipeg
RECEIVED

OCT 15 2004

REÇU
Agence canadienne
d'évaluation environnementale
Winnipeg

Safe Environments Programme
510 Lagimodière Blvd.
Winnipeg, MB R2J 3Y1

October 15, 2004

MB-2004/05-06

Mr Gerry Tessier
Federal Response Coordinator,
Technical Advisory Committee
123 Main St, Suite 263
Winnipeg, Manitoba
R3C 4W2

**Subject: Health Canada Response to the EIS for the Red River
Floodway Expansion Project**

Dear Mr Tessier,

As requested in your e-mail of October 6, 2004, I am forwarding Health Canada's comments on the EIS of the Red River Floodway Expansion Project to your office. I understand that you will collect the federal TAC responses, and distribute them to the federal responsible authorities and to the provincial Chair of the TAC.

Unfortunately, additional comments planned for inclusion in this submission are not yet available. These comments may include concerns specific to First Nations interests. In our efforts to respect the timelines of the Province and the Technical Advisory Committee, we did not wish to delay our submission. We offer our apologies and ask for your patience while our specialists continue their review of which we will submit to you under separate cover as so as they become available.

The expansion of the Floodway is among other things, a public health initiative, given the range of health issues associated with flood protection. The Expanded Floodway has the potential to contribute significantly and positively to health protection of the population within the watershed. At this point however, with the information that was provided in the EIS, dated August 2004, we are unable to establish whether or not any sub-populations within the study area and/or watershed will be adversely and significantly affected considering the proposed mitigation and future projects. Additional information is required to allow for a more robust evaluation of the extent to which there may be populations at risk of health concerns resulting from the operation of the Expanded Floodway.

Our comments are based on consideration of the potential effects of the Expanded Floodway, rather than those of the project as defined by the proponent which are characterized by what the proponent refer to as incremental flooding. From the perspective of health protection and consideration of health effects associated with proposed construction, operation and maintenance, it is appropriate to evaluate the effects of the Expanded Floodway and so we followed this approach in our assessment. We support that the proponent be encouraged to adopt a similar approach.

Health Impacts of Flood Events in Relation to the Expansion

There exists an extensive body of scientific knowledge and highly qualified expertise here in Canada on the effects of flood events on the physical, social and psychological health of individuals, families and communities¹. As well, authoritative bodies such as the World Health Organisation have published scientific assessments of flood impacts, although much of this work draws on events having taken place outside of Canada². In keeping with standard environmental assessment methodology, the EIS should acknowledge this body of knowledge. There are two things specifically that if undertaken would constitute good EA practice with respect to health in this instance. The first is an evaluation of likelihood of health impacts, or risk of health impacts in the case of the proposed project. An evaluation of the types of health impacts most likely to be associated with this particular scenario could be done with the assistance of appropriate expertise available here in Canada. Second, the EA method then allows for determination of significance of those impacts, thus making for a transparent and technically more robust EA. These two factors, transparency and technical robustness are critical factors in assuaging public concern as well as providing the information needed by, in this instance, Health Canada, in providing advice to the RA as to whether the health considerations are adequately addressed in the EIS. Currently, the authors of the EIS have apparently omitted this from the process rendering an evaluation on our part impossible other than to point out the omission. As a final point here, please note that it is possible that the health risk assessment based on current scientific knowledge and undertaken by flood impacts experts would reveal a manageable likelihood of effects.

Chapter 8 "Socio-economic environment"

Section 8.2.1 differentiates between two types of socio-economic effects related to the project, stating that one of the two types is not considered an effect under the Act, and therefore its significance need not be considered, nor does it require mitigation or follow-up. However, the Act states the *any effect of any change in the environment caused by the project* is to be considered. We will be seeking verification on this interpretation for our own purposes as an advisory body, and simply wish to raise it for your consideration at this time.

¹ See Maltais, Danielle, Suzie Robichaud and Anne Simard (2001) *Désastres et Sinistrés*. Les éditions JCL inc. Chicoutimi.

² See www.euro.who.int/ccashh/Extreme/20020620_1 and <http://www.euro.who.int/document/mediacentre/fs0502e.pdf>

Given that there is evidence that the elderly are a more vulnerable population in the event of flooding, the EIS should look at this issue more closely, including the consideration of expected demographic shifts in the areas expected to experience increased flooding. Standard health impact assessment methods consider vulnerable populations. (Page 8-94 declining and aging populations in the more rural/agricultural based communities)

Section 8.5.3.5 discusses effects and mitigation on "Other Community Facilities". The section does not identify the effects of shifts in estimated flood risks on the health infrastructure, including Regional Health Authorities that service those areas estimated to experience an increase in flooding. Has the proponent informed the Provincial health infrastructure as to possible shifts in demand for flood response related services?

The report identifies that mental health is of particular concern for some areas as reported by health care providers. Did the interviews seek to identify potential causes of this high incidence rate of mood disorders, and particularly, were health professionals interviewed as to the role of flooding or flood risk (perceived and real) on mental health within their jurisdiction?

Perception of risk and health effects

This section attempts to clarify what may be some important and challenging issues with this EIS and the following are offered as guidance. It is useful to separate the concepts of perceived risk of X-level of flooding by residents of the floodplain versus the actual or predicted risk of flooding. When the perceived risk is greater than the calculated level of risk there may be disagreement between the various stakeholders on the merit of the proposal. This can be a factor in the level of public support for the project.

The perception of risk can contribute to increased stress and anxiety, which in turn can affect a number of health endpoints including increased susceptibility of psychosocial disturbances, immune system function and cardiovascular incidents³. This is different from the actual health impacts that are addressed in the section above but which may constitute an important factor in gaining greater public support for the project and constitute in and of themselves a detrimental health influence.

For those for whom perception of risk remains high, either 1) perception of risk is greater than actual risk or 2) perceptions of risk are in line with actual risk. In the first instance, the problem becomes one of communication, transparency and technical robustness seeking to bring perceived levels of risk in line with actual levels of risk and in the second, mitigation lies in taking steps to lower the actual risk level for those populations for whom current anticipated levels are too high.

³ http://www.hc-sc.gc.ca/hecs-sesc/ehas/publications/canadian_handbook/volume1/chapter7_part2.htm

Toxic contamination

Conclusions and Recommendations of the International Red River Basin Task Force ask that for the protection of water quality that "Governments should take immediate steps to ensure that all banned materials such as toxaphene are removed from storage areas in the Red River basin and that potentially hazardous materials are not stored in the 500-year floodplain. Reasonable quantities of such substances could be maintained in the floodplain for immediate use." (TF 33)
(<http://www.ijc.org/rel/pdf/001590app2e.pdf>).

There was no mention found in the EIS as to the application of this statement to the zones of interest and the state of any work done to remove banned and/or hazardous substances. This issue should be addressed in the EIS to reduce the risk to human health by the contamination of water or soil resources. The *Canadian Environmental Protection Act, 1999* and the *Pest Control Products Act* are two relevant federal acts of legislation administered by Environment Canada and the Pest Management Review Agency of Health Canada, respectively. Provincial and/municipal authorities would be able to provide information on the enforcement of legislation and provide advice regarding agricultural, commercial and industrial storage practices of hazardous substances in the floodplain area.

Determining significance of health, social and socio-economic effects

There is no justification provided for the adoption of the definition of significance presented in the glossary of the EIS. Its formulation is biased towards highlighting benefits and minimizing adverse impacts. The method of application of criteria for determination of significance by the authors favours the omission of important information by considering a subset of only three of the entire list of criteria for determination of significance.

The criteria described in the table in Appendix A can be applied in the assessment of significance of health, social and socio-economic effects.

Further, the proponent assesses, without clear justification, that impacts of floods larger than that of 1997 occurring outside the zone of increased flood protection as RARE and of MINOR significance. However, the entire basis of the proposal is on the assessment of flood impacts as adverse and significant, with the Expansion being undertaken specifically as a result of these so called rare events. Relying on the rarity of these flood events as important in the evaluation of the residual effects including mitigation as MINOR, does not reflect a consistent logic and again contributes to the omission of important information in the EIS in terms of defining adequate and appropriate mitigation measures.

Mitigation

Emergency Preparedness and health services

Where an increase in flooding is predicted, even incrementally, mitigation of associated adverse effects requires that adequate services be available to assist residents within the flood zone in the hours, days and weeks following the flood event. For those areas for whom flood risk is predicted to augment, an evaluation of the current capacity of emergency preparedness and health services is recommended to ensure that adequate service is provided to affected populations.

The Public Health Agency of Canada operates the Centre for Emergency Preparedness and Response. The Centre has services to offer in the event of natural disaster events including flooding by working closely with provincial and local health officials. At your convenience, we would happy to coordinate an exchange between the Centre officials and either the RA s and or the proponent to learn more about this service.

Compensation

The document refers to mitigation through compensation as consisting of "compensation to those adversely affected by incremental project flooding (if other mitigation not effective)" (page 8-41). Does this mean that compensation will be limited only to the portion of the effects deemed to be incremental, for example to the effect of the top X centimetres of water in a families' basement? Is this approach feasible in practical terms? How will determination of damage costs be made, and examples are required to fully understand the effectiveness and acceptability of this mitigation measure.

Page 8-31 states: "To the extent flood protection mitigation was not fully effective during a flood event, MFEA is committed to ensuring that compensation be provided to those adversely affected from incremental flooding from the Project." Through what mechanisms will the MFEA follow through on its commitment to ensuring compensation, and what definition and criteria for compensation has it adopted?

What are the flood proofing criteria referred to in Appendix 3B, page 3B-290?

Sustainable Development Principles

Social justice

The project seeks to render a public health service to a region of the province, with a net benefit on a population basis. What precisely is the justification for the adoption of this strategy and on what basis does it provide the justification to shift flood risk from one population to another, even incrementally? The explicit description of this justification would facilitate the decision as to whether it is justified under CEAA, and under what conditions this may be acceptable.

Cumulative effects and Future projects

If future projects will provide flood protection to all areas and residents where an increased flood risk may occur because of the Floodway Expansion, that these projects be accelerated and incorporated into this EIS process in a more tangible way, ensuring that their implementation would unfold in parallel to that of the Floodway Expansion. This approach, in not exposing anyone in the population to increased flood risk, would address any concerns over significant residual impacts.

Strategy for integrating health into the Red River Expansion Floodway

Finally, we propose the following broad planning themes to aid in the better integration of health (including social and socio-economic) considerations into this EA

- Engage specialist expertise available from within academia and the private sector to evaluate the risk of health effects related to the flooding scenarios as well as determining their significance.
- Invite the existing health infrastructure to participate in the process and take part in a mitigation strategy. In the event of floods, emergency response and preparedness and health services are critical to minimising impacts. Any communities at increased flood risk require particular attention with respect to health services.
- Communicate these initiatives publicly, in collaboration with the health infrastructure
- Adopt a flood protection plan for an area larger than the current study, and move tangibly towards putting it into place

We encourage the proponent to engage the appropriate expertise to assist them with the identification of health effects and of the significance of any residual effects and appropriate mitigation associated with the project as well as providing a more detailed evaluation of the benefits of increased flood protection in the Red River watershed. We can assist in the identification of such expertise and continue to work as a Federal Authority in reviewing this work.

Please be assured that we will remain available to continue to work with you as a member of the Federal team conducting this joint environmental assessment. We thank you for allowing us the opportunity to participate in this EIS review.

Should you have any further questions, please feel free to contact Sandra Owens at (418) 650-5115 ext 5272 or Rick Grabowecky (204) 984-8318.

Sincerely yours,

Rick Grabowecky
Regional Environmental Assessment Coordinator

c.c Dan McNaughton, CEAA
Helen Ptasznik, HC
Sandra Owens, HC

Manitoba



Manitoba Water Stewardship

Administrative Support Services
1383 Whyte Avenue
Winnipeg, Manitoba R3B 1V7

December 23, 2004

Mr. Paul Clifton
852 Red River Drive
Howden, Manitoba
R5A 1J4

Dear Mr. Clifton,

Re: Your request for access to information under Part 3 of The Freedom of Information and Protection of Privacy Act:
(Our file 013/04)
(Ombudsman file 2004-058)

In regards to your Freedom of Information and Protection request filed with Manitoba Water Stewardship, our file 013/04 dealing with documents referred to as 197 and 198, please note the following:

The department has again been in contact with the Manitoba Ombudsman's office in relation to the exceptions to disclosure that were applied to the information within the documents. Through additional discussions we have determined that the documents will be made available to you.

We are attaching the documents, 197 and 198.

If you have any questions or concerns please do not hesitate to contact me at the above address or phone (204) 945-4170, fax: (204) 945-8345 or e-mail at gcielen@gov.mb.ca.

Sincerely,



Garl Guelen

Access & Privacy
Administrative Support Services

Attach

c.c. N. Brandson
Ombudsman's Office



Manitoba
Natural Resources

Water Resources Branch
1577 Dublin Avenue
Winnipeg, Manitoba

Telecopier Transmittal Cover Sheet

To: Maurice Sydor
Environment Canada

Phone:
Fax: (819) 994-0237

From: Rick Bowering
Manitoba Water Resources

Phone: (204) 945-6397
Fax: (204) 945-7419

Date: Thursday, December 11, 1997

Pages including this
cover page: 14

Comments:

Maurice, here is the original agreement referenced by Paul Clifton. Also included is the only response we have on our files from the federal government to the operating rules.

An issue is article 20 which states that the province must receive approval for the program for operation of the floodway from the federal government. In particular, subsection (3) states that any changes shall be submitted to the federal government for approval. We have not done that. Our position is that changes we have made are only "fine tuning" changes. They were all made within the intent of the original agreement based on experience we have gained over the years. Furthermore, none of the changes impact on areas of federal responsibility. In particular, the change we are getting the most flack on is when we switch from normal operation (rule 1) wherein we maintain natural levels south of Winnipeg, to rule 2, where, because of the imminent threat of overtopping the dikes in Winnipeg, we do not let levels rise above 24.5 feet at James Avenue. The original rules specified 25.5 feet, but experience has shown that the city could not sustain 25.5 feet, particularly in a year like this year.

000197

We have made the point that operating rules are really guidelines. They are not rules in the sense of legal regulations. We have rule curves for all of our reservoirs and control structures, but we use them as guidelines. An engineer would be irresponsible to knowingly allow Winnipeg to flood because he rigidly holds to the operating rules.

000198

While some efforts have been made to catalogue ice jams, no basin-wide inventory exists. The U.S. Army Corps of Engineers' Cold Regions Research and Engineering Laboratory (CRREL) has developed a national ice jam database that contains a number of events in the U.S. portion of the Red River in which ice affected river stages. The Commission concurs with the Task Force that consideration should be given to incorporating all Red River basin ice jam information into the CRREL database so that ice problems in the basin can be further analyzed.



U.S. Army Corps of Engineers, St. Paul District

Wild Rice River near
Ada, Minnesota.

C. Protecting Large Population Centers

As noted above, communities, in coordination with state, provincial and federal organizations, can protect themselves from flood damage by retaining runoff before it gets to the floodplain, moving water around communities through bypass channels, or removing structures from harm's way. Although these measures are effective in some circumstances, given the relatively flat terrain in the Red River basin, many communities have found levees to be the only economically justifiable and socially acceptable protection measure. Urban levees are appropriate protection, provided they are evaluated systemically, are set back a reasonable distance from the river, take account of natural functions of the floodplain, and do not affect upstream or downstream flood levels.

If structural improvements are not engineered to withstand the forces of flooding, or if the levees are not high enough or cannot be raised in an emergency to withstand expected flood levels, these systems may give residents a false sense of security. In some instances, all possible sources or pathways for flooding may not have been considered. These sources would include "backdoor" flooding, inadequately plugged sewer systems, unknown seepage paths under levees, inadequate closures at streets and railroads, and inadequate interior drainage. In addition, individual community projects must be evaluated systemically to determine their impacts on those outside the community and downstream and upstream from it.

The Commission considers it most important that those protected by levees understand that a residual flood risk remains even when permanent levees provide a high level of flood protection. Levee elevation design is based on protecting against floods of a certain height or frequency, taking into account the costs of levee construction weighed against the damage prevented. A flood that overtops the designed levee places the people and property behind the levee in jeopardy. The lower the level of protective structures, the more frequently the community is at risk. As part of flood preparedness, communities need contingency plans to deal with the possible overtopping or breaching of their levees.

Clearly, the protection of Winnipeg must be given a high priority. But it is equally clear that proposals for additional flood protection for the city or alterations to the operating rules for the Winnipeg Floodway must take account of the full economic, social and human costs for other areas that would be affected by such measures. A transparent process of open consultation must be established to ensure that residents of such areas have an opportunity to be an integral part of any decision-making process. The Commission considers that the doubts expressed about the efficacy of a detention structure at Ste. Agathe as the solution to Winnipeg's flood problems must be addressed and that there must be a full evaluation of the economic and social costs of the projects proposed. If the consensus is to proceed with such proposals, prompt and complete compensation of damages should be provided to any who are injured as a result. It is noteworthy that the Boundary Waters Treaty would provide for adequate protection and indemnity to persons in the United States who might be injured by an increase in water levels caused by a structure such as that proposed at Ste. Agathe. It is hard to imagine that Canadians should receive less consideration.

The Commission recommends that:

IJC Recommendation 3: The city, province and the Canadian federal government should cooperatively develop and finance a long-term flood protection plan for the city that fully considers all social, environmental and human effects of any proposed flood protection measures and respects both the needs of Winnipeg and the interests of those outside the city who might be affected by such a plan.

In response to suggestions made by the public in 1998, the Task Force investigated two proposals for increasing the discharge capacity of the Winnipeg Floodway channel—removal of the outlet structure and removal of the inlet weir or plug. Analysis shows that removing the outlet structure could produce a minor increase in flow capacity of 56.6 cms (2,000 cfs) and result in significant erosion. Removal therefore cannot be justified. Lowering the inlet weir crest level by 2.13 m (7 feet) to the level of the Winnipeg Floodway channel would increase the discharge capacity by 1.4 cms (50 cfs). This benefit is insignificant and not worth the complications arising from early entry of ice into the Winnipeg Floodway channel. The Commission concludes that neither of these options should be given further consideration.

In addition to structural measures, there are a number of non-structural protective measures that need to be addressed by the city of Winnipeg. Despite the success of efforts in 1997, more planning for extreme events must be undertaken. The Commission encourages the city to enhance the flooding component of its Emergency Preparedness and Response Plan (EPRP) to address the following:

- emergency evacuation of large portions of Winnipeg;
- emergency response to breaches in flood-retaining structures;
- emergency construction of approximately 80 km (50 miles) of temporary dikes; and
- planning for operation of flood control works during unprecedented flow conditions.

North Ritchot Action Committee (NRAC)
Summation to
The Clean Environment Commission
Hearings on the
Expansion of the Winnipeg Floodway
8 March 2005

The following presentation summarizes NRAC's participation in these proceedings and our overall review of the project. The information we have presented before the commission represents only small part of NRAC's submissions through the PAT/ EA process. Our summation relies on all of this information which we assume is available to the Commission.

CEC terms of reference specify:

"The Commission shall conduct a public hearing, ... to consider the potential environmental, socioeconomic and cultural effects of the construction and operation of the Red River Floodway Expansion Project."

The Proponent has indicated it is seeking a licence *"for this expanded project and its operation."* (transcript page 969 / lines 7-8).

The job CEC has before it is to *"...provide a recommendation on whether an Environmental Act Licence should be issued to the Floodway Expansion Management Authority for the Red River Floodway Expansion Proposal"* (CEC Terms of Reference).

What have you heard in the past weeks to assist you in making your recommendation?

You have heard many points of view over the last few weeks, expressed with various degrees of clarity and emotion. There is obviously significant public concern about the floodway in either of its guises – the existing or expanded floodway and the environmental impacts it will have, especially on people not embraced in its design philosophy but faced with the consequences. The lack on the part of the proponents of the project to recognize the serious consequences of their project on a minority sector of Manitobans has created a deep rift between the stakeholders and the proponents, both the MFA and the Government of Manitoba. Distrust with the proponent and the government was evident in so many of the presentations that it has to make you wonder how this could happen.

We believe it stems from the initial design philosophy, a philosophy that does not look to address the needs of all concerned stakeholders but rather was designed address the needs of one group, the majority, to the exclusion of the other, the minority. Pitting neighbour against neighbour is not an acceptable means of gaining consensus. This should be obvious to all, including those without a direct personal stake in the project. Ms. Hendrickson, in the presentation by the Rivers West coalition stated it very well. *"There has been so much divisiveness and animosity in these proceedings and we certainly do not want this to be another issue that causes additional divisiveness and bitterness in the Red River Valley. We are not advocating recreation over water quality over mitigation or compensation. All issues are important and must be considered and addressed in a manner acceptable to all. The parties involved (which*

we take to mean the government and Authority) *need to meet their obligation to the people of the Red River Valley.*" (2534/15 to 2535/2). That is exactly what was called for by the IJC, the Manitoba Water Commission, and has been advocated by NRAC since its inception some eight years ago. Eight years is long time to voice legitimate concerns and still not be heard.

Nonetheless the disenfranchised have spoken at these proceedings with unanimity, not all on the same issue but with the way their individual issues have been neglected. Even the Rivers West/Red River Floodway Trail Coalition, who I'm sorry to say, we had viewed, at one time, as kids frolicking on our gallows unmindful of their intended function, have a firm grip on reality - a reality that has escaped the government, the proponent and their paid representatives.

Regardless of their specific issue – bank stability, ground water, recreation, infrastructure, artificial flooding - all others noted deficiencies in the EIS. Deficiencies in:

- consideration of structural and operational alternatives;
- scoping the project;
- defining the significance of impacts; (environmental effects as defined by CEAA)
- assessing biophysical, sociological, economic, health, psychological and recreational issues;
- the lack of meaningful consultation and dialogue with stakeholder engagement in the project design and operation
- transparency and candor.

There are identified information gaps concerning:

Ground water

Bank stability

Impacts on fish

Impacts on wildlife

Artificial flooding (past and future)

Economic impacts

Sociological impacts

The environmental assessment

And we have heard several times that the Proponent is "not aware of any data ..." indicating an adverse effect (772/6-7) when in fact there are no data. Period. (eg 2777/14-19). An absence of data does not mean an absence of impact.

In total, there is an overwhelming deficiency in conducting a proper EIS. And it is not just the great unwashed masses, or in some cases the washed out masses, who have expressed these opinions. You have documents from Health Canada, Infrastructure Canada, Transport Canada and others that note the same deficiencies.

NRAC suggests the evidence of deficiencies speaks for itself. Let's look at some specifics.

Cumulative effects

The issue of Cumulative Environmental Assessment has been a pivotal issue throughout these hearings and materials originating from CEAA guidance documents were submitted purportedly to defend the assessment approach used by the proponent.

First, it is unfortunate that someone from the Canadian Environmental Assessment Agency was not available to speak to the issues raised particularly with regard to the "existing environment" and the requirements of a cumulative effects assessment. Nonetheless, CEAA may yet have the final say on this matter.

It is NRAC's view that much of the information presented in the EIS stems from a misinterpretation and misrepresentation of the guidance information. Common sense and legal precedents dictate that it is impossible to have a cumulative effects assessment without knowing what the environmental effects of the existing project are. (NRAC Review of EIS, page 7 of 22). The proponent has used tortuously convoluted arguments to reject the need for real consideration of cumulative effects. NRAC agrees with the Chair that one should consider the environment as a child who cannot speak for herself. If the arguments get convoluted and hard to follow, they are not suitable for the child. When the heavy machinery leaves, there will be only one floodway. Suggesting that all the future impacts are caused by the old floodway and the old rules doesn't stand up.

Is someone going to come out, in say 2014 and say "too bad about all this flooding. And so sad it was all caused by the previous floodway." The absurdity of such an assertion is obvious to all, and the fact that it is that obvious makes it an insult to those of us who are likely to be affected and deserve to be dealt with fairly. The approach advocated by the proponent is so patently unreasonable that it merits complete rejection.

The only reasonable proposition is that there will be one expanded floodway in the end. As simply as possible, what are the real questions of our area?

1. Will the expanded floodway have environmental impacts?
 - More specifically, will there be artificially high water in some areas as a result of operating the expanded floodway? Note this analysis would also apply to downstream issues.
 - The answer is obviously YES so the next step is - Define and quantify the impacts.
 - The proponent has not done this.
2. Would the interaction between the City's infrastructure and floodway operation ever permit water levels below "natural" upstream?

- The answer is obviously YES so the next step is - Define and quantify the interaction.
 - The proponent has not done this.
3. Would the City's infrastructure interact with floodway operation in a way to affect either spring flood or summer operations?
- The answer is obviously YES so the next step is - Define and quantify the interaction.
 - The proponent has not done this.
4. Do the Shellmouth Dam and Portage Diversion interact with the operation of an expanded floodway?
- The answer is obviously YES so the next step is - Define and quantify the interaction.
 - The proponent has not done this.

The evidence points in one direction only – that the proponent has presented virtually no information on the impacts of the operation of the expanded floodway.

Operation of the existing and the expanded floodway are guided by the so called Rules of Operation. NRAC has made numerous presentations and generated numerous letters with regard to the Rules. Some of our concerns are summarized here because the rules are so significant to the impacts we suffer.

Process covering Rules of Operation

MFA says the Rules already exist and therefore need no review. Indeed they go so far as to say that the rules, specifically rule 2, define the baseline environment (461/1-9). While the Proponent views this definition as "ironic" (448 & 449/24-1) NRAC believes the rules of operation are a key component of a proper **cumulative effects** analysis.

Now the Proponent may try to convince you that the impact of operating the expanded floodway need not be examined because they predict artificial flooding – upstream impacts – will be a bit less frequent than stated under the previously approved rules.

Well let's look the evidence supporting at those three words "previously approved rules."

"Previously"

The IJC task started contemplating an expanded floodway in 1999 – that's the conceptual start of the Project. In December of 1999, the committee reviewing the rules of operation completed its report.

The Province submitted its proposed new rules in December 2000 and Minister Anderson, federal Minister for the Environment responded with caveats, in a letter to

Minister Lathlin dated 26 April 2001. This was 2 days after Mr. Doer was quoted in the Winnipeg Free Press as being committed to floodway expansion. (2639/16-17)

So far, the development of a new plan for floodway operation appears exactly concurrent with the development of the project of floodway expansion. They clearly do not precede the Project under review, clearly are integral to that project, and clearly within the scope of the EIS. To pretend otherwise is to pretend operation of the expanded floodway will not flood anyone.

Then, on top of it all, Rule 4 was added in November 2004, while the EIS Supplementary Filing was being finalized. How something created unilaterally by the Province while the project is under environmental review can be seen as baseline environment boggles the mind.

Clearly the operating rules are not part of a past activity but are in fact concurrent with the physical expansion of the floodway and must be part of this review.

But we're not done yet. Remember the rules are part of the baseline because they were previously approved. Not only were they not approved **before** the project got underway, they weren't approved.

"Approved"

The rules are designed to flood individuals, businesses and communities upstream. **Manitoba Environment Act** section 1(2) defines "development" in part as

"any alteration ... of any operation...which is causes or is likely to cause ...(d) the utilization of any natural resource in such as way as to pre-empt or interfere with its use or potential use for any other purpose ...(f) the utilization of a technology...that may induce environmental damage."

NRAC reads "floodgates" for "technology" and recognizes that artificially high water pre-empts the use of our land and induces environmental damage - clearly demonstrated in 1997. Then NRAC interprets this to mean that the alteration of the operation is a development that requires an environmental licence, under Provincial legislation.

The Proponent provided supporting evidence. The Supplemental Filing says (Section 8 page 32-33)

"It is assumed that this [control of summer river levels in Winnipeg] will be a project requiring a licence for a change in the Floodway operation rules and that the environmental issues will be dealt with as part of the environmental licensing process."

What applies for summer operation projected to stay at or below 760' ASL must surely apply in spades for Rules 2 and 3 that will put many feet of water above natural conditions on our properties and 4 feet of water over our current flood protection.

Others could comment with more authority, but it seems to us that a development that plans to flood Manitobans, directly impacting their health, safety, society and economy must be a class three development requiring hearings.

To our knowledge, no hearings have taken place to assess those rules at either the provincial or federal level.

Let's get back to the simple questions before the CEC: "What are the environmental effects of the existing rules of floodway operation?"

The simple answer is: We don't know. They haven't been studied. They were scoped out by the proponent.

So we have a program of operation developed concurrently with the rest of the expansion project, without due process, but which have upstream impacts that have not been examined.

Rules

Is this program a set of guidelines or a set of rules? The opinion of one engineer is that they are guidelines. The opinion of another engineer is that they are "hard and fast" rules. I am not going to offer my opinion as a scientist. In any case, it is probably inappropriate for anyone other than the government to speak to the issue of the operating rules.

Most of what we have heard came from the MFA, although the Authority neither formulates the rules nor applies them. It seems to us that if the rules are completely in some other domain, and their creation and application **interact** completely with the expansion of the floodway, then they are obviously part of the cumulative effect assessment. But we've been there already.

But whether they are rules or guidelines is paramount to an environmental review. A bigger ditch has little impact on folks upstream, until it is filled with water. How it becomes filled with water is what the rules determine. The expanded floodway does not flood us; the operation of it does. This is an important point that goes to the issue of defining the existing environment as we have spoken to in our review of the EIS

Did we hear any evidence to support the claim that the rules are hard and fast? Are they inviolate and fixed? No – but we heard evidence to the contrary.

During these proceedings Mr. Bowering stated "*I really can't think of a situation where you would violate them, unless ...*" (502/12-22)

What makes them inviolate? What makes them fixed any more than the previous ones, which were

- Changed without environmental review (i.e. In 1984, 1999 and 2004)

- Presented to the drafting committee as interim according to Mayor Stefaniuk and Mr. Bowering (586/14-20)
- Then adopted unilaterally (586/25 to 587/1-9)
- Remaining inviolate all the way from April 2001 to November 2004 when Rules 4 was added, again without due process.

This does not bode well for the assertion that the rules are inflexible.

What are the consequences to the operator for breaking them and who applies the disciplinarian action? None is specified.

Is this sufficient for an environmental licence? Can the issuers of environmental licences assure themselves

- that the rules will not be changed again unilaterally?
- that there are legal restrictions on violating the rules?
- that there are clear penalties for violating the rules?

The evidence supports only part of the claim that the rules are "hard and fast." It supports the "fast" part as in "fast and loose."

Summer operation

All our comments with respect to the process of creating and modifying rules applies to rules for both spring and summer operation.

Again there is insufficient information and the information that is provided is ambiguous and contradictory. Section 8.2 of the Supplementary Filing (SF) does not clearly distinguish between emergency and non-emergency summer operation

The Proponent maintains emergency operation is required to prevent damages as seen in 1993 but their SF says

"... large portions of this damage were due to significant rainfall events and not necessarily due to coincident high river levels." (pg 34)

Rule 4 uses as one of its criteria for summer emergency operation

"The risk of an intense rainfall event..." 4(4)(a)(iii)

but the SF says

"... it is not practical to operate the floodway in response to rainfall forecasts." (pg 32)

The evidence presented by the SF is so contradictory that huge uncertainty remains about what may or may not happen and why - uncertainty that has not been addressed in the project assessment.

The SF also says that before control of summer water levels, there should be further assessment. It lists a few things this assessment should include, and says:

"Furthermore, damages associated with disruption, personal and business loss during periods of flooding has [sic] not been considered in the assessment of benefits. Increased stress and anxiety should also be considered for those living upstream of the Floodway Inlet Control Structure as well." pg 34

Obviously, these factors have not been considered.

The Proponent would have you believe that a set of statements about how the floodway might, or might not, be operated, at least until the rules are changed without scrutiny or violated without penalty, define the existing environment. NRAC commented on the absurdity of this in its review of the EIS (page 4 of 22):

"This is at best an amusing approach as it suggests that the environment can be modified merely by changing the text of the operating rules for the existing floodway. Clearly, that is not what is envisioned under CEAA. It is the operation of the existing floodway that caused the environmental effects in the past and it will be the operation of the new, larger floodway which will produce those environmental effects in the future. It is unreasonable to suggest that after completion of the new floodway that the existing floodway (which will no longer exist) will continue to produce environmental effects that somehow are not connected to the expanded floodway. Conveniently, this analysis makes the environmental effects disappear"

Upstream protection/Alternatives

You have heard a great deal of discussion about 778' ASL, whether this is a new upper limit or not, whether the physical structure could have ever achieved this level, whether it is safe to bring water that close to the top of Winnipeg's protection.

But for NRAC, the real concerns start at much lower water levels and floods that occur much more frequently.

The EIS figure 5.3-4 has been discussed repeatedly. The proponent has emphasized the double-headed arrow at the top of the vertical line representing the 1 in 225 flood. This shows the reduction in the depth of artificial flooding in our neighbourhood. This leads the Proponent to conclude there is no significant impact.

But is that really what the evidence in 5.3-4 says? Going down the 1 in 225 vertical line you encounter:

- first, the two-headed arrow that denotes a reduction, not elimination, of artificial flooding which may benefit residents at the outer margins of the reservoir; i.e. they may not yet be submerged.
- then the lower arrowhead where the level of artificial flooding associated with the expanded floodway is at about 775' ASL, ~1.5 feet above the FPL (dashed line)

- then the top of our provincially required Flood Protection Level (dashed line) at about 773.5 ' ASL at the floodway,
- then way down to the natural level of a 1 in 225 flood at roughly 770' ASL using the proponent's own rating curve for natural conditions.

(I appended an annotated Fig. 5.3-4 to help you fine the points on the graph referred to here. Note that the distance between hatch marks on the right vertical axis are not uniform, making this side of the graph a bit difficult to interpret.)

As we noted in our written comments on the EIS (11 of 22):

"The graph highlights a 1.0 m difference in water levels between the existing floodway and the expanded floodway for the 225 year flood, implying a positive environmental effect. Yet clearly both floodway scenarios exceed the current flood protection level for upstream residents. At the same time the expanded floodway still causes something in the order of 1.5 m of artificial flooding during the 1:225 flood. That is hardly a benefit to upstream residents."

So the advertised benefit is a non-benefit in our area. To have your home's ring dike overtopped by one foot instead of 2 feet is not a benefit. If an inch comes in, it all comes in. Water levels even with the light switches in your living room is pretty much the same as a water level one foot above the light switch. Operation of the expanded floodway will put our flood protection underwater by forcing water levels artificially high, some time between the 1997 flood and the 1 in 225 flood. **The much ballyhooed benefit – a reduction in artificial upstream flooding – occurs AFTER upstream Flood Protection Levels have been topped.** Any benefit would be marginal and would accrue to the margins of the affected zone.

In discussing alternatives to this scenario of rural disaster, the Proponent has repeatedly said that \$100 M or \$110 M has been spent to increase flood protection upstream so no further consideration need be given. Let's just look at individuals who received about \$60 M (SF – Section 8 Figure 2 of Annex A1). To get \$60,000 in grant funds, individuals had to spend at least \$10,000. So individuals paid at least \$10 M to get 1 in 120 protection which will be violated the moment new rule 2 is enacted and overwhelmed shortly thereafter.

It is also clear from the evidence presented that our pre-1997 flood protection approximately the 1 in 100 year level has not been significantly improved by the reported \$110 Million. That is particularly the case for those who live immediately upstream of the floodway – the residents of Ritchot – where the new flood protection barely restores flood protection lost through floodway operation, which made the 1 in 100 flood two feet higher than natural. It should be obvious to anyone who examines figure 5.3-4 that there is little benefit, on a flood-frequency basis, for anyone attempting to build beyond the rapidly rising (slope of curve) water once rule 2 is invoked for either the existing or expanded floodway.

The major point is that residents have spent that money just to get us a level of flood protection that the Proponent says is unacceptable for the city. Apparently, it is good enough for us but not for them.

Why hasn't there been any analysis of structural and operational options to let reservoir residents benefit from this expensive protection? Why hasn't there been any risk assessment.

Different presenters have offered a variety of structural options. Virtually none was examined apparently because the Proponent considered it "unnecessary." (1183/11-14). We have heard the operator, Water Stewardship, say there are a great many ways the whole system, including the Shellmouth Dam and Portage Diversion, could be used to share the benefit (816/11-14). But it wasn't considered because these flood controls were built for Winnipeg (816/20-21) – an archaic and draconian design philosophy.

Clearly there is a range of options between all the benefit going to Winnipeg and all of it going to Ritchot. Any environmental assessment that ignores such blatant opportunities to mitigate impacts is not an environmental assessment.

Consultation

Mr. Gilroy proudly presented his score card on consultation (214/6-16). The Proponent will likely tell you it had heard most of what was said before you many times and has acted on the relevant issues.

Ah. The relevant issues.

These consultative meetings always started, just as Mr. McNeil did at these hearings, with a statement about what was not included, a list of issues the Proponent chose not to consider.

Consultation does not mean saying "We are here to talk about our project but not any of your serious issues. Any questions?"

You have heard from NRAC how the Manitobans most affected by the operation of the Winnipeg floodway were excluded from meaningful participation in their review. You have heard from Mayor Stefaniuk and Mr. Bowering how those changes were to be interim and reviewed again later as part of floodway expansion, and how this was not done (587/3-7 & 17-21). You have heard from Rivers West and the Red River Floodway Trails Coalition how they were invited into discussions and invited out again. (2549/1-2550/10) You have heard from many people with long histories of trying to get information and resolution from the Government of Manitoba over many varied flood issues. The few success stories in these histories were won at hard cost.

While many of these personal histories arise from the original floodway and its operation, they are relevant here as testimony to the long-standing adversarial approach that thwarted meaningful consultation about floodway expansion.

That leads us directly to the next topic -

Review of significant impacts

The significance of the impact of operations of the floodway have been ignored and trivialized by the Proponent, because they were excluded by its flawed stance on what the environment is and what constitutes and environmental effect or a cumulative effects assessment.

In your opening remarks, you noted that *"... participants do not have the same access to expert advice and resources available to the proponent."* (194/7-9). We concur about the resources but many of the participants have expertise in areas completely unknown to most of the MFA. They have been flooded. They have had groundwater contaminated. They have had ice jams. They have suffered at the hands of their Provincial government over water and flood-related issues as well as trying to obtain fair compensation. You have had access to some very expert testimony on the significance of impacts.

With the wealth of evidence before us, why should the proponent be at odds with the vast majority of other participants? Why is the Proponent alone in thinking there are only insignificant impacts? Perhaps the most telling reason was given by Mr. McNeil in discussion with Ms. Clifton. When asked if there had been any environmental impacts resulting from the operation of the Winnipeg floodway in 1997 he said he didn't think so but didn't really know (907/18 to 908/15).

Of course there were homes that had relied on ring dikes that went under by a few inches – all of it artificially high water. Mr. McNeil took, perhaps, too narrow a definition of environmental impacts and left out this rather severe example. And therein lies the root of our problems: we are simply left out.

Upstream flooding is also dismissed as a rare event. The Proponent cites frequencies on the basis on one-time events. Upstream residents experience any number of these events and therefore must endure the cumulative frequency of these events.

From NRAC's review of the EIS:

"Another flawed argument used in the EIA for dismissing the significance of environmental effects is the apparent infrequent occurrence of the effects. With artificial flooding (levels above "natural" rating curve) occurring roughly once in 90 years for the existing floodway and once in 120 years for the new floodway and the current flood protection levels being exceeded somewhere between 1:125 and 1:200 for the existing and expanded floodways respectively, the EIS

claims the apparent risk to residents is so small to be statistically insignificant. Whether a risk at these probabilities is significant or not is not worth debating. More significantly, what the EIS analysis overlooks is that these probabilities are for any given year and that residents living upstream are likely to live there for more than just the one year. The probabilities become cumulative with duration of residency. Many of the residents living upstream have been a part of the community for their entire lives and some families have been there for generations. Even using a conservative residence period of 25 years would mean that a resident has a 24.4% or 18.9% chance of being artificially flooded and an 18.2% or 11.8% chance of being inundated by the existing and expanded floodways respectively. Put into perspective, any resident living upstream of the floodway for a period of 25 years would have roughly the same odds as someone playing Russian roulette, assuming a 1:6 chance. Few people would accept such odds as being trivial or insignificant and the likelihood only gets worse for longer term residents. Any reasonable person would find such an effect to be significant."

You have seen the data from Mr. Bowering and Mr. P. Clifton that shows that roughly half the time the gates have been used in the spring, they produced artificially high water upstream. That is using the proponent's definition of natural – it jumps to about 19 of 23 times if natural is defined on the amount of water actually there.

So in spring operations we have seen artificial flooding over 50% of the times the floodway has been used. That's at least 11 (perhaps 19) artificially high peaks upstream in 35 years – about 33%

Add the prospects of artificial flooding in the summer and we are virtually guaranteed of repeated impacts in our foreseeable futures

Floodway operation that impacts reservoir residents is neither rare nor insignificant.

You have heard several passionate presentations about the lingering effects of the 1997 flood. You have seen the psychological impact, heard the economic costs, learned about the sociological effects.

You have extended your hearings from 3 weeks to 4 weeks. Why? Because for so many people the existing floodway and the expanded floodway loom over their heads every day like a sword

How often did you hear those presenters blame the river, the water, the season, the environment for their heartbreak and anguish. I didn't hear any. I didn't see any in the transcripts. I haven't heard any in 8 years of discussing floods with my friends and neighbours.

Because it is not the river harming us. It is the Province of Manitoba that chooses to manipulate the river in a certain manner.

What you have heard is a litany of broken promises.

- Promises in 1968 when Rita Bartmanovich's father-in-law was told the floodway would help keep his upstream property dry
- Promises in 1999 that the rules would be reviewed again
- Promises from then opposition leader Doer to get us all into a room and work it out
- Promises for full consultation regarding floodway expansion

What you have heard is a litany of denial from the Province – the proponent, operator, and arbitrator of floodway expansion and operation.

- Denial of past artificial flooding
- Denial of impacts on groundwater
- Denial of impacts both upstream and downstream of Winnipeg
- Denial of responsibility

Mr. McNeil, in an interview last week, said that we should just trust government. Mr. Chair, residents of the reservoir have absolutely nothing in their history of floodway construction, operation, and mitigation or compensation that would support that trust.

The EIS and SF ignored serious aspects of a proper environmental assessment and promised to conduct studies on some impacts such as bank stability and wildlife damage caused by summer operations. That defeats the purpose of an environmental assessment which is to examine the environmental effects such that informed decisions can be made.

Finally, the Proponent may dismiss – has dismissed - these concerns because whatever the unknown impacts, any damage caused by this project in the future will be covered by the compensation legislation. You have heard testimony from NRAC and many others who have no such faith in the compensation legislation.

Compensation Legislation

First, the proposed legislation has not yet been proclaimed – it is not in effect.

Second, as you have heard it covers only material losses based on an assessment by the perpetrator of those losses, the Manitoba Government.

You have heard that compensation can not possibly address the emotional and psychological (social impact) impacts you have seen in the past weeks, (665/7-9) Presenters at these proceedings, including NRAC, have testified that it is the social consequence that persist, that cannot be redressed through replacing damaged goods and that cannot be ignored. That is why these people are showing up here now, some 8 years after the last flood. And you have heard that these impacts have not even been examined (2725/17-19).

The health and socio-economic effects brought about by changes in the environment are critical to upstream residents. The International Joint Commission clearly summarized its views on this matter in its assessment of the 1997 flood.

"There is no satisfactory way to sum up the collective trauma of the over 100,000 people who were affected by the flood and who struggle to recover, even now, more than three year after the event. The Commission knows from its many visits with local residents, public hearings, and study of the flood that the human toll is high and real. There is no easy way to assign an economic benefit to the value of knowing one is relatively safe from future floods or the economic cost of the trauma of knowing that you may once again be flooded" (IJC, Living with the Red, November 2000).

The only mitigation possible is to share the benefits and stop flooding us.

CEC Duties

I have just reviewed some of the reasons for distrust. Other presenters have spoken to it more directly (eg 2285/18-23; 2933/7 to 2934/6). In fact, one common theme in the presentations before you was the history of Manitobans taking the Manitoba government to court over water and floodway related issues.

The CEC can start to address this distrust. In your remarks back on 15 February you said:

"fairness must not only occur but there must be a perception of fairness and impartiality during the hearing." (194/4-6).

We would say flood protection must also start with the perception of fairness and impartiality as well.

Don't set your sights too high: you can not restore our faith, eroded over 40 years, by yourselves. But you can start by protecting your own credibility.

We expect your review to be compassionate.
We require that your review be logical.

You have evidence that:

- there are serious omissions in the EIS and SF.
- there are contradictory claims in the EIS and SF.
- there are information gaps identified in the EIS/SF and promises to address them at some future time
- the Province of Manitoba has a dismal record on following up on such promises
- the licensing procedures for operations have not been followed

Our logic says that an environmental licence cannot be recommended on the basis of the process and information on hand.

Our logic, based on our long history and the histories of other participants, says that a conditional recommendation is as good as a *carte blanc* for the Proponent to carry on, and ignore those conditions,. If we don't get it right this time - when will we get in right.

Our logic says we'll see you again in about a year when a proper EIS is tabled.

Obviously our logic dictates a delay.

But had a proper EIS been prepared in the first place, there would be no delay. And even now a delay will not be for the full 5-year construction phase.

The Proponent will argue – has argued – that a delay of a year will add to the cost but you have also heard that the benefit to Winnipeg is so great, the current price-tag has a cost-recovery period of only 12 years (2735/14-15). The project is to protect Winnipeg for future generations. None of us here will get an opportunity of this magnitude again. For the proponent, this is just a project. A big project, perhaps their crowning glories as engineers, but just a project. To us, it is our lives.

I'd like to return to the presentation by the Rivers West and Red River Floodway Trail Coalition. Virtually every one else involved in the environmental review process has water protection as their basic issue. It may be ground water or artificial water or frozen water, but most of us are interested in keeping water out of our homes and bad water out of our good water. The Trail people therefore stand alone as an interested and informed third party. And they offer a tangible example for the cooperation NRAC has been seeking for years.

Rivers West and Red River Floodway Trail Coalition advocated the formation of a group that

"...includes non-coalition stakeholders, be they municipalities, be they hay farmers, whatever. And that the third group involved in this project team include the Manitoba Floodway Expansion Authority..." (2562/18-23)

Despite the apparent futility of our long history attempting to work with the proponent, NRAC still agrees with this approach. It is the great failing by the Proponent not to have adopted this approach from the start – not working together with stakeholders.

In conclusion:

- It is NRAC's position that the evidence before you does not support recommending approval for an Environmental licence for floodway expansion at this time.

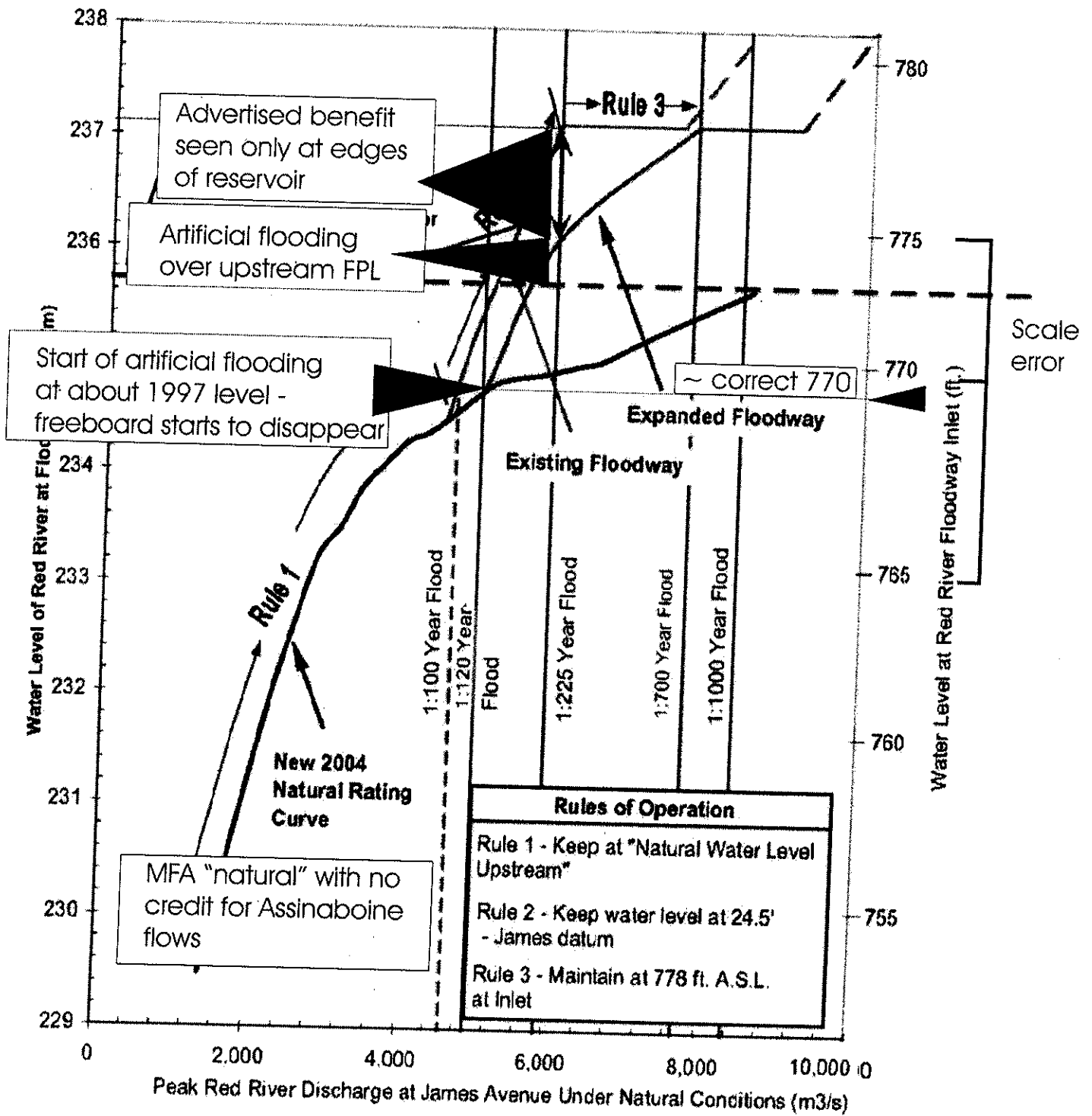
- We ask that you collate the numerous deficiencies we and others have noted in the EIS and recommend that those deficiencies be addressed by the proponent.
- In the interest of expediency with rigour, we ask that you recommend the revised EIS go to a joint Federal/Provincial panel where the requirements of CEAA can be fully considered. The alternative of a separate federal panel, although it may be necessary, is not the most desirable option.

As I noted at the start, the majority of testimony presented was that the process for public involvement, for public recognition, was neither inclusive nor comprehensive.

This is more than just a review of a floodway project. This is about fairness and honesty, about working together towards a shared goal and about respecting the rights of all Canadian citizens. If the provincial process cannot accommodate these issues, then the federal government will have to assume its responsibilities. We sincerely hope that you will give everything that you have heard serious consideration and we hope that your decisions will be governed by information and wisdom and not expediency.

Thank You.

Annotated Fig 5.3-4



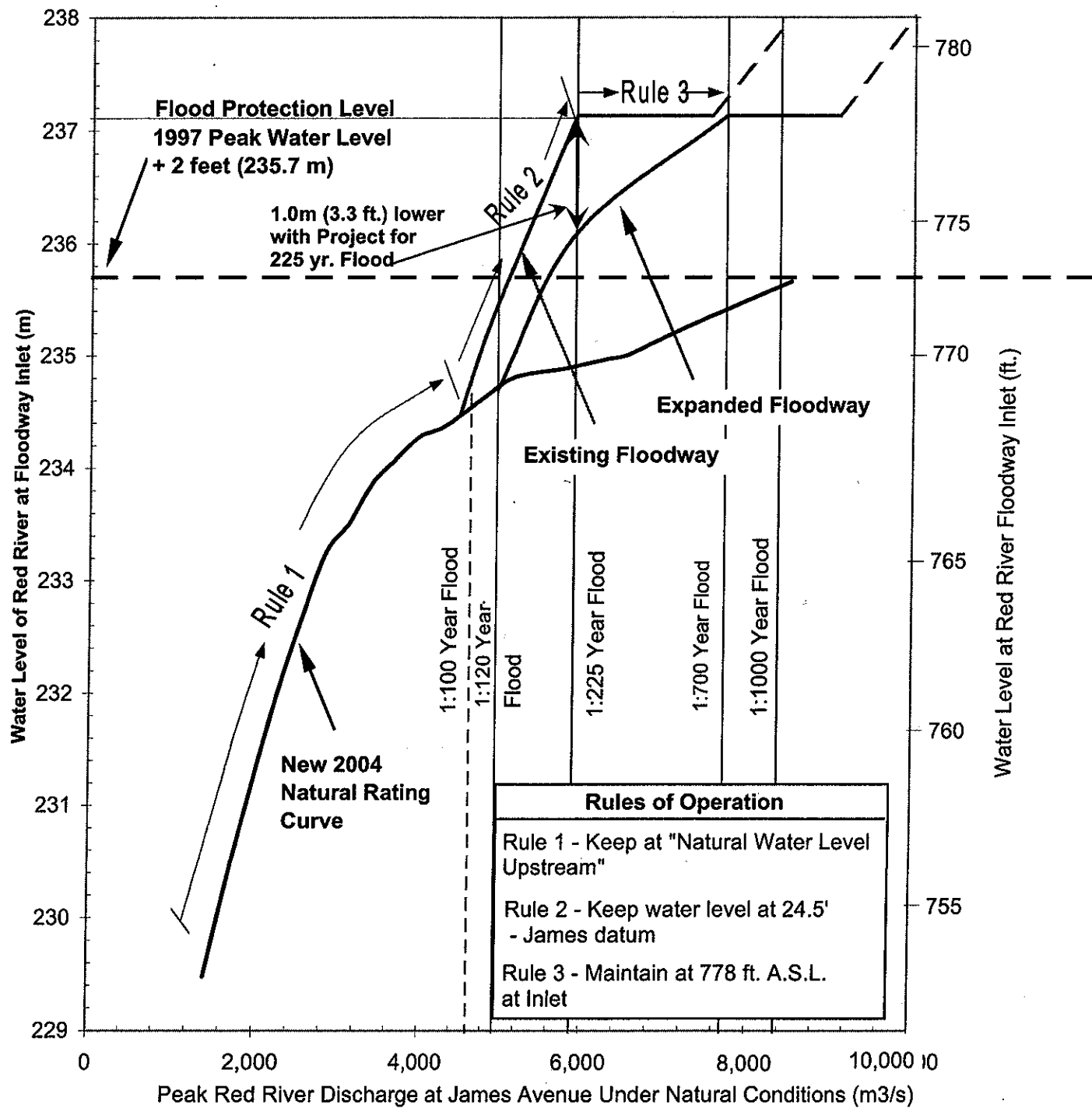
Source: KGS/Acres/UMA 2004a

Application of Floodway Operation Rules for Existing and Expanded Floodway

Figure 5.3-4

10042
rev 07/02/11/09

ORIGINAL Fig.



Source: KGS/Acres/UMA 2004a

Application of Floodway Operation Rules for Existing and Expanded Floodway
Figure 5.3-4

rules2
ms011021109

This Page Intentionally Left Blank

9-122/

Public Comments Received on the Federal Environmental Assessment Document:

**Screening Report
Red River Floodway Expansion Project**

May 2005

Submission by: Ritchot Concerned Citizens Committee (RCCC)

Ritchot Concerned Citizens Committee

June 21, 2005

Mr. Gerry Tessier
Senior Program Manager
Canadian Environment Assessment Agency
(Prairie Office)
Suite 445 - 123 Main Street
Winnipeg MB R3C 4W2

Canadian Environmental
Assessment Agency
Winnipeg
RECEIVED

JUN 22 2005

RECEIVED
Agence canadienne
d'évaluation environnementale
Winnipeg

Dear Mr. Tessier:

Re: Screening Report Red River Floodway Expansion Project

As you are aware, Ritchot citizens living upstream of the floodway control works have a keen interest and concern for the proposed Red River Floodway Expansion Project. The Ritchot Concerned Citizens Committee (RCCC) has participated fully in all public consultation activities associated with this project, most recently in the Manitoba Clean Environment Commission (CEC) public hearing process.

We have now reviewed the screening report prepared for Infrastructure Canada and are writing to respond to it.

Both the federal screening report and the CEC report make reference to the fact that, for many persons affected by the 1997 flood, there continues to exist a heightened sense of distrust of government and government agencies. This is particularly the case for Ritchot residents and RCCC members who have experienced the adverse effects associated with operation of the floodway control works.

Because of government guidelines concerning the "baseline" and "cumulative impact assessment", it is our view that the environmental assessment for the floodway expansion project was too restricted in scope. As a consequence, the impacts attributed to the proposed project failed to capture the real cumulative impacts of the Red River Floodway, its past use and operation and likelihood of future impacts. The CEC report commented explicitly on the narrow, legalistic approach taken by the MFA in conducting its EIS, and how this approach mystified Commission members and angered public participants.

It is very clear that the MFA and participants of the Floodway hearing process have vastly different views on the adequacy of the baseline used for the impact assessment

844 Red River Drive • Howden, Manitoba • R5A 1J4
Telephone: (204) 269-9690 • Fax: (204) 269-9691

and interpretations of cumulative impacts identified with the project. While the RCCC has been repeatedly reassured by responsible federal authorities that the environmental review process will be clear and transparent, the debate associated with these two subject areas suggests otherwise.

We would encourage you to re-visit the observations and recommendations made by the RCCC in the CEC hearing process. Our views concerning baseline and cumulative impact assessment remain unchanged. The lack of clarity respecting both of these key points received support in the CEC hearing report that states "one point made in the Wuskwatim report that is particularly germane to this and any future environmental assessment was our observation that requiring higher standards of performance would enhance the practice of environmental assessment in Manitoba and make it more transparent for Manitobans".

In this context, the RCCC notes with interest and is encouraged by the comprehensive approach proposed in the screening report for environmental protection and management programs recommended by Infrastructure Canada for the floodway expansion project through the development and implementation of an Environmental Management Plan (EMP). Our interpretation of this recommendation is that the Manitoba Floodway Authority (MFA) must meet all of the requirements of the EMP in order for the proposed project to not cause significant adverse environmental effects.

We note that the EMP "should describe the environmental impacts associated with the project (and its component parts) and the measures to be taken to mitigate those effects". This is very encouraging as no upstream studies are reported in the EIS that describe or quantify the socio-economic effects that occur beyond elevation 771.5 ASL at the inlet.

The RCCC understands that the EMP is intended to capture all of the environmental commitments (including but not limited to mitigation, monitoring and follow-up) outlined in the screening report itself, the EIS, Supplemental Filings and other documents provided by the MFA, and to ensure that they are all met during all phases of the project.

The screening report makes reference to what might be considered to be technical matters such as baseline studies, monitoring programs, assessments, procedures and protocols, design and construction measures, research techniques and technology, hydrological/geo-technical investigations, mitigation, and modeling required to ensure no adverse effects of the project.

The screening report also refers to what might be considered to be matters relating to policy, management and administration in the EMP during the construction phase of the project, to ensure the adequacy and effectiveness of efforts to comply with the

multitude of environmental commitments undertaken by the MFA, including ongoing reporting and accountability. Specifically in this regard, we note that the EMP is to identify roles and responsibilities for ensuring the implementation of the required management actions to address potential adverse effects, and that an overall action plan is required for the preparation and submission of the required plans and other documents for review and approval. The screening report also makes reference to arms length appeal bodies, a peer review team, public committees and meetings, public liaison committee, public workshops, working groups and so on.

The preparation and implementation of the EMP and the Environmental Inspection Plan will represent a tremendous and time-consuming effort, considering that all of these activities must provide sufficient time for review and discussion with all parties - responsible authorities, appropriate federal representatives, the MFA and other stakeholders.

Clearly, many challenges must be overcome in order for the EMP concept proposed in the screening report to meet its intended objectives. Questions must be answered and plans made concerning matters such as: specific agencies to ensure accountability for the untold number of actions and activities outlined in the federal screening report; staffing and resources available in support of these activities; detailed specifications and schedules for implementation measures, mitigation works, research and technical studies; and participation of the public, special interest groups and government agencies, to name a few. None of these are specifically addressed in the screening report.

All of the above suggests the need for a formal and structured approach to the proposed EMP, including public involvement in the development and operation of the project. The RCCC believes that this is really the only way to ensure that the EMP can meet its intended objectives in a timely manner that also addresses the urgent need for transparency.

It is the position of the RCCC, therefore, that the federal government should arrange, as part of its responsible authority mandate for participation in the project, for a formal process to permit representatives of RCCC and others an on-going role in developing and monitoring implementation of the EMP. This is consistent with the recommendation in the CEC report to establish a peer review team as part of the on-going public consultation process. Federal authorities have a responsibility to ensure that the EMP is developed and implemented in accordance with the commitments made by MFA and others.

Assuming that some resources will be available for such purposes, the RCCC would appreciate the opportunity to work with the responsible federal authorities and other stakeholders to achieve "a level of confidence that the effects predictions contained in

this screening report and in the MFA's submissions were accurate, that the effects associated with the project are being addressed appropriately and consistent with the principles of adaptive management, provide a basis from which to adjust and refine the mitigation measures to ensure their effectiveness". At the same time, RCCC participation may provide some assurance to our members that adverse effects are in fact being minimized and/or eliminated.

The RCCC fully recognizes the prominence and importance of the floodway expansion project. We are committed to working with all levels of government in a manner which achieves project licensing approval through a process that all participants can be proud of. We ask only for the same commitment by government to provide for our on-going participation and support in the environmental protection and enhancement process.

Yours truly,



Bob Starr
Chair

This Page Intentionally Left Blank

10-6/

Public Comments Received on the Federal Environmental Assessment Document:

Screening Report
Red River Floodway Expansion Project

May 2005

Submission by: Rural Municipality of Ritchot



21 June 2005
FAXED

Mr. Gerry Tessier
Senior Program Officer
Canadian Environmental Assessment Agency
Suite 445, 123 Main Street
Winnipeg, MB R3C 4W2

Via Fax No. 204-983-1878
Original in Mail

Canadian Environmental
Assessment Agency
Winnipeg
RECEIVED

JUN 22 2005

REÇU
Agence canadienne
d'évaluation environnementale
Winnipeg

Dear Mr. Tessier:

Re.: Screening Report for the Red River Floodway Expansion

I write on behalf of the Council of the Rural Municipality of Ritchot and submit the following comments on the above-referenced Screening Report.

The intention of the floodway expansion project is to provide additional flood protection to the City of Winnipeg. Since Winnipeg is the economic hub of the province and is the largest city in the province, it makes good sense to enhance its flood protection to the 1-in-700 year flood event. The residents of Ritchot, as well as the rest of Manitobans, agree the project makes sense and to protect our capital city from such a predictable catastrophic event.

The federal government's Screening Report states, 'that the proposed project, as defined in the scope of the project, is not likely to cause significant adverse environmental effects'. At the Manitoba Clean Environment Commission's Hearings held during February and March of this year, there were a great number of concerns expressed to the commission. These concerns ranged from serious to minor in nature. The Floodway Authority addressed many of these issues and

changes were immediately made to the project. An example of such would be that the floodway channel would not be deepened and only widened to minimize the impact to ground water. This was within the scope of the project and added no further cost to project. Taking the concept of the project scope a little further, we in Ritchot argue that the scope is too limited and that it does not deal with artificial flooding caused by floodway operations. Perhaps it does not include this is because engineering solutions would add significant costs to the project. However, this does make the project scope adequate or equally fair to all Manitobans. Therefore, based on this limited scope and limited project definition, the Screening Report is also limited and condones a project that will be harmful and injurious to thousands of people in Ritchot residing upstream of the floodway control structure.

Chapter 11 of the Screening Report addresses the Socio-Economic Environment of the project. The Floodway Authority clearly does a very good job with project construction logistics but appallingly poor with the horrendous effects artificial flooding will have on Ritchot residents. Unfortunately, this is a sentiment reflected in the Screening Report. It is irresponsible for the Floodway Authority to imply that there are no significant long-term effects from rare flood events on personal or business location decisions. One only has to compare recent lagging growth statistics of our municipality with that of neighbouring municipalities.

The Floodway Authority states the "1997 Red River Valley Flood Proofing and Dyke Enhancement" agreements protected 9 additional communities and through another program 2576 homes and businesses were flood protected to the 1997 flood level plus two feet of freeboard. These programs did provide adequate flood protection for upstream residents.

However, in their EIS, the Floodway Authority's graph, entitled " Water Surface Profiles South of Winnipeg, Comparison of the 1997 Flood Event with the 700 Year Flood Event", clearly shows that from the floodway inlet to the Avonlea Corner all the communities, which all are in Ritchot, are overtopped by the 700 year flood event when floodway operations cause artificial flooding. It is obvious that the above-referenced programs do not provide the same flood protection that all the other communities in the Red River Valley have naturally or from man-made protection systems.

The Floodway Authority suggests that when the 700-year flood level is reached upstream residents and communities could augment their flood protection infrastructure by the use of sand bags. Anyone who experienced the 1997 flood in our municipality knows this is not practical and inherently dangerous. The Floodway Authority should also know this and this solution is probably intended to gloss over the whole upstream flood protection concern.

The existing floodway was never designed for summer operations and by its very nature, causes artificial flooding upstream of the floodway control structure. This infringes on people's rights to enjoy and feel safe on their property. Summer floodway operations also cause riverbank erosion that has deleterious effects on wildlife and riparian treed lands. Water is stored on private property with no compensation paid to the landowner. The province keeps talking about buying low-lying properties affected by summer operations but these properties for the most part are market gardeners. There are many other concerns regarding summer operations such as loss of road access, backed up field drainage systems. Other than compensation paid to market gardeners, compensation paid

to other affected landowners is negligible. The floodway expansion project does nothing to ameliorate upstream summer operations effects or concerns. The Province of Manitoba's Red River Floodway Act is intended to compensate Manitobans for artificial flooding caused by floodway operations gives Ritchot residents no comfort at all. Legislation can be changed at any time and it may potentially put the Province in a conflict of interest as it administrates and adjudicates claims. This in itself is an admission that floodway operations will cause significant adverse environmental impacts. The Floodway Authority's statement that a residual effect from summer operations is small in magnitude, short-term in duration, local in extent and rare in frequency is proving to be untrue.

The project baseline design of 780 feet above sea level at the inlet control structure for the 700-year flood event is far too high. This causes our whole municipality to become a reservoir for the floodway and the province is intending to do this without our permission or approval. The baseline design must not be allowed to exceed 770 feet above sea level. This level would be a fair one and provide Ritchot the same level of flood protection that is enjoyed by all the other communities in the Red River Valley.

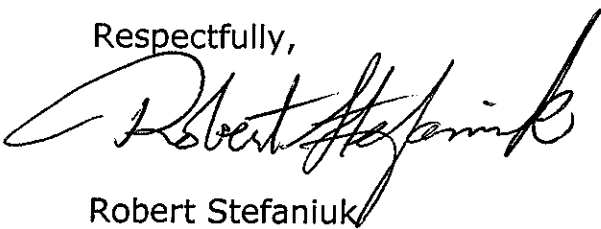
Ritchot is the only municipality that is affected by artificial flooding caused by floodway operations. As a diverse community, we also have people and an economy to protect. Our citizens, who are also taxpayers, are also susceptible to their environment and stresses caused by the threat of flooding and actual flooding. The Floodway Authority uses these health stressors to justify their expansion project for Winnipeg but ignores them in Ritchot.

The provincial government continuously chooses to sacrifice and marginalize us based on spurious cost-benefit ratios that are incorrectly applied due to an inadequately defined project scope. Ritchot is not located in low-lying land as it is normally perceived. We are on land that is higher than Winnipeg and some of our families have lived here for as long as people have lived in Winnipeg. The rest of our residents did not move here because they enjoy being flooded. Unnatural flooding was never a part of the original floodway design and was not a concern until the Province of Manitoba started changing the rules. They continue to change the rules to the detriment of Ritchot residents. They are carrying forth the design flaws of the original floodway regardless of the empirical knowledge and more sophisticated hydrological technology now available.

The \$660 million cost of the project while high is not that outrageous considering the current floodway has saved \$8 billion in damages to the City of Winnipeg, a very good return on a \$68 million investment. Our citizens deserve the same consideration and equality as everyone in the Red River Valley. The added expense for engineering solutions to mitigate upstream artificial flooding can be easily justified. Artificial flooding was a mistake when it was first used and will still be a wrong in the future! The maxim that mitigation is always cheaper than remediation still holds true in spite of what the Floodway Authority or the Province of Manitoba may advocate for the benefit of short-term reduced monetary considerations. The expanded floodway will be on the landscape for centuries to come, so let's do it right and leave a proper legacy; not one of foolishness and fiscally irresponsible shortsightedness.

Again, we agree that Winnipeg must be protected against the 700-year flood event but we also agree with the International Joint Commission's statement that flood protection should not be done on the backs of your neighbours. We hope the Government of Canada recognizes what has been said and will not allow the Red River Floodway to go ahead in its present form and limited scope or definition. Federal funding should not be granted to a project that will do so much harm to the 5000 people who live in Ritchot. The memory of the 1997 flood, the losses, the years of rebuilding are still too fresh in our memory. The \$700 million to cover the costs of The Flood of the Century would be small compared to the future costs of a 700-year flood. Some of that money invested today in a proper floodway expansion would provide great financial benefits for future taxpayers of this country and peace of mind for Ritchot residents along with economic sustainability for our municipality. It is hoped that the Government of Canada will be able to make our provincial government understand some of these basic premises.

Respectfully,

A handwritten signature in black ink, appearing to read "Robert Stefaniuk". The signature is fluid and cursive, with a large initial "R" and "S".

Robert Stefaniuk

Mayor

Copy: Council Members of the R.M. of Ritchot

This Page Intentionally Left Blank

Public Comments Received on the Federal Environmental Assessment Document:

Screening Report
Red River Floodway Expansion Project

May 2005

Submission by: Rural Municipality of Springfield



Rural Municipality of Springfield

P.O. Box 219
628 Main Street
Oakbank, Manitoba
R0E 1J0
Phone (204) 444-3321
Fax (204) 444-2137

June 22, 2005

Canadian Environmental Assessment Agency (Prairie Office)
Suite 445, 123 Main Street
WINNIPEG, MB
R3C 4W2

Attention: Gerry Tessier, Senior Program Officer

Dear Mr. Tessier:

I am pleased to provide comments regarding the Screening Report dealing with the expansion of the Red River Floodway. These comments are from the perspective of the Rural Municipality of Springfield and are supported by a comprehensive response being forwarded on behalf of the Rural Municipality of East St. Paul, Rural Municipality of St. Clement's and Rural Municipality of Springfield.

We look forward to continuing discussion on this issue

Yours truly,

John D. Holland
Reeve
JDH/abb
Enclosure

Response to Federal Screening Report June 22, 2005

I am writing in response to the Federal Screening Report on behalf of the Rural Municipality of Springfield.

First let me compliment the responsible authorities for having recognized the concerns of the Rural Municipalities and for actually documenting that our comments were taken into consideration.

At the same time I don't think I would be presumptuous to say that the importance of the Municipalities' input was clearly demonstrated in the hearing process. We feel our continued input will be of equal value. We were initially quite shocked that the Federal Screening Report was released prior to the Recommendations of the CEC, as we felt those Recommendations should be considered in preparing the Federal Screening Report. Fortunately we now have the benefit of the CEC Recommendations, which Recommendations are not inconsistent with the conclusions of the Federal Screening Report and to the extent they enhance the level of environmental protection, and increase public confidence should be incorporated into the Federal Screening Report.

The Federal Screening Report recognizes a need for a comprehensive environmental management plan and refers to a role for the municipalities in that process. Unfortunately that role is not clearly defined. It is not clear whether such a plan will be an instrument of the community or of the MFA. The Municipalities need to be recognized as having a meaningful role in the process of construction and on-going operation.

The CEC requirement for peer review is important to establishing our position and will be of assistance to the responsible authorities as well as the Municipalities and stakeholders by providing an objective evaluation of plans and recommendations put forward by the MFA. The CEC were candid about the apparent lack of trust between the MFA and municipalities and stakeholders in general and such peer review would go a long way to establish a trust

recognize a full partnership status for the Municipalities. Critical to water quality monitoring is establishment of a baseline. This is solidly endorsed by the CEC and may be implicit in the CPEPP requirement but needs to receive solid support backed by specific recommendations. Similarly the CEC Recommendations for hydrogeological evaluation are much stronger.

The Municipalities are encouraged that the issue of loss of water from the regional aquifers is recognized as a concern and that the project is required to be delivered in such a manner that it does not exacerbate the loss currently taking place. We are disappointed that the Responsible Authorities seem completely resigned to the current level of groundwater loss. We had urged application of the ALARA principle to ground water loss, as there may be opportunities to either reduce the level of loss or capture the water before it is lost. We realize that the reckless approach by the PFRA in construction of the original floodway has resulted in damage that cannot reasonably be repaired but we should not close our eyes to the possibility of viable opportunities.

It is important that the ALARA principle be endorsed in the reports as the alternative is to endorse a minimum capital cost approach as opposed to the appropriate application of costs to environmental concerns regarding both construction and operation.

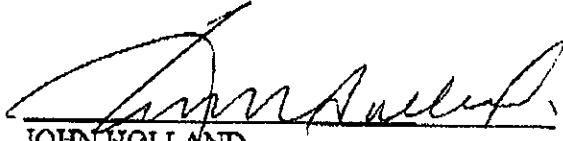
Finally we want to confirm the MFA'S commitment to the four lane bridge at Hwy 15, the requirement for dialogue with the CCCD regarding drop structure upgrades and the approach to determining when artificial flooding has occurred which is a possibility in our community of Prairie Grove.

We would add that we understand our neighbour St. Clement's concern that a year round crossing be developed in their R.M. between the widely separated crossings at PTH 59 and PTH 44. Such limited opportunity for crossing the structure impacts the ability to provide emergency and day-to-day municipal services and normal commerce.

12-5

Finally in keeping with the general themes of transparency, ongoing monitoring and adaptive response it is important to acknowledge that the City of Winnipeg needs to properly manage out flows into the Red River Floodway Channel, as well as their own flood protection and storm sewer infrastructure as identified in the CEC recommendations. Such a commitment would result in much less frequent instances of artificial flooding south of the inlet.

Respectfully Submitted



JOHN HOLLAND
Reeve of the Rural Municipality of Springfield

12-6/

Public Comments Received on the Federal Environmental Assessment Document:

**Screening Report
Red River Floodway Expansion Project**

May 2005

Submission by: Rural Municipality of St. Clements

Federal Screening Report Response

On behalf of the

R.M. of St Clements

On behalf of the council of the R.M. of St. Clements and as the Reeve of the Municipality, I am responding to the Federal Screening Report.

We would first like to take the time to acknowledge the Federal Authorities and thank them for recognizing the concerns that the Rural Municipalities brought forward, and viewing them as having the value. It was felt that the professionalism and the accuracy brought forward in our submission could have fallen on deaf ears and we are pleased that it has not. We feel we have much more to offer in this process and ask that we be given full input until it ends.

Since it is our Municipality's chance to have input on the Screening Report, we would like to bring forward some of our concerns on what was missed and what needs to be further detailed. This is in no way to take the place of our opinion being brought forward by our legal council but it is to add our recognition of the report and further personalize the municipality's concerns. Basically, it is to paint a face on the picture, on a personal level.

As you may be aware, we were quite concerned by the fact that the Federal Screening report was released prior to the CEC recommendations being handed out and it was our opinion that the Federal Screening report should have given the CEC recommendations full consideration before doing so. With that said, we would like to review with you quickly the opinions and concerns that will be brought forward in our submission from the R.M.s, and from our legal council. We would also like to add personal level concerns on two other issues important to the R.M. of St. Clements and our neighbors, which we feel have fallen to the side.

We originally considered it important that that the R.M.'s be allowed to play a role in this project until finalization. We feel it is a must that the public see full transparency in the project. Indeed, the CEC report itself talks about a lack of trust between MFA, the R.M.'s and the public. The only way to improve trust is to allow full participation of the R.M. on two levels. The first level is the Peer Review Committee, where we would be allowed to appoint our representative to the Committee and to have the committee of such size that the input from our specialist would not be over whelmed by sheer numbers. This committee should be made up as a third party review at arms length from the M.F.A. and the Province. I would also ask that you review the comments put forward from our legal council, Mr. Currie, and ourselves regarding this issue.

The second level of participation would be as per in your own recommendations, that a Liaison Committee is established and that a member from each R.M. be allowed to sit on it. The role that the committee plays should be clearly laid out and it be given powers of review and input to the project. We must all remember that transparency is of the utmost importance to the residents that we all represent.

The issue of ground water protection has been at the forefront of our concerns, along with the Mitigation Fund and the issues of its handling and management. The public views this as the number one issue and the importance of safe potable water needs to be dealt with in a way that is satisfactory in their eyes. To allow the Authority to oversee this issue with no direct public review is not acceptable. We feel the Federal Screening report is weak in recognizing the importance of this issue and ask that process be up front and in the public's eye with full disclosure. MFA must NOT be allowed to have full rein on this issue.

The subject of mitigation of water loss in our eyes does not address the issue of the present state, it only addresses from now forward. Water is becoming a commodity and is now one of the most important issues that we all face today. We feel it is totally unacceptable that the MFA be allowed to continue this practice and only be held accountable for future loss. As the municipalities are going forward in our development plans for the future we lose the ability to access this ground water, which is a major part of our plans. It is our opinion that the MFA be forced to

address this issue through mitigation and to do so in a way which would allow the Rural Municipalities to reclaim the water. The double standard of the R.M.'s requiring water licensing and the MFA doing what ever they want, is not acceptable and must be corrected.

Reviewing another major issue of importance to the R.M.'s is the Dunning Road Crossing, which seems to continue to be put aside. The concern being brought forward from the three Rural Municipalities on the Dunning Crossing is based on the need and the usage of the crossing, for now and for the future.

The crossing is located within the R.M. of St. Clements but is utilized by citizens of all three communities. The R.M.'s of St. Clements, East St. Paul, and Springfield all have citizens on the east side of the Floodway and St. Clements and East St. Paul have large populations within the boundaries of the west side between the river and the floodway. All depend on the low-lying crossing as a link between communities. These communities come from established citizens who homesteaded this area and have continued to raise their families in the community which they have grown up in. Since the floodway has come into being, the citizens of this area have had to take on an unfair burden and the stress of having their communities separated for something that has little or no benefit to them. That alone should stand for the reasoning of a bridge link between them.

Our communities depend on this crossing for emergency services. The southern fire hall in St. Clements is responsible for it citizens on the east side and a better crossing is a must, as it adds far to much time for them to respond to a call when the crossing is washed out. The timing concern is especially true when it comes to the Pine Ridge Village Mobile Home Park, which is located right across from the Dunning Crossing. There alone stands a population of approximately 1400 people, in a tight and enclosed area. Every minute counts when it comes to responding to an emergency situation in the park.

St. Clements has approximately 5000 people in the area that can utilize the crossing; East St. Paul within its northern portions has 3000. The population base on the east side, including Springfield, adds further to this. So in total, we have a population base of more than 8000 residents (and growing) who would utilize a solid and dependable bridge crossing if it was in place. As it stands now people are forced to take other options that add to the inconvenience of traveling and shopping in the area.

The usage of Dunning Crossing will continue to degrade as the Floodway is utilized more and new Rules of Operations are put forward. This has proven to be true with this year's operation of the floodway.

The bottom line is that we as municipalities have given up much for the floodway, with little or nothing back. The majority of the floodway is contained in the three R.M.'s. We feel we should not have to fight for something that is so important for the well being of our citizens. There has to come a time when the interests of the minority must be taken into account. The recommendations seemed to have done this when with the Highway 15 bridge, authorizing it to be built as a four-lane bridge on a two-lane highway. With the future growth considerations taken into account the MFA arranged for the improvements for this bridge. This makes sense and we all support it fully, however the Dunning crossing sits with no consideration of the future for those who live in this area. This we feel is not acceptable. This is especially true when it comes to the fact that St. Clements continues to be burdened with the expense of upkeep on the crossing every time it is used to protect the City of Winnipeg from flooding.

The only solution to these problems is to erect a level crossing of the Floodway at either the Dunning Road Crossing or between Bird's Hill Park and Donald Road. Again, with the increased operations of the Floodway our communities that have strong growth pattern require a crossing that is safe and dependable. This is something which we see as little, compared to all that we have given!

In closing we ask that you give all our comments consideration in order that they be implemented into the Final Federal Screening Report. It has been upfront from the beginning that the R.M.'s support the need

for the expansion of the Floodway, however to ask that our residents be sacrificed for any part of it is not acceptable. Again, we have already given up so much for the city; to ask for so little in return should not even be questioned in our eyes. The residence of the Rural Municipalities of St. Clements, East St. Paul, and Springfield deserve to be able to sleep at night knowing that they count too!

In closing, we wish to acknowledge the time and effort put into ensuring a fair and equitable process by the federal authorities.

Sincerely,

Mr. Stephen Strang
Reeve of the R.M. St. Clements

Public Comments Received on the Federal Environmental Assessment Document:

**Screening Report
Red River Floodway Expansion Project**

May 2005

Submission by: Rural Municipalities of Springfield, St. Clements, and East St. Paul



LEVENE TADMAN GUTKIN GOLUB LLP

Barristers and Solicitors

700 - 330 St. Mary Avenue, Winnipeg Manitoba R3C 3Z5

Phone 204-957-0520 / Fax 204-957-1696

Website: www.ltgg.ca

Canadian Environmental
Assessment Agency
Winnipeg
RECEIVED

JUN 22 2005

REÇU
Agence canadienne
d'évaluation environnementale
Winnipeg

Orvel L. Currie
Direct Line 957-6401
ocurrie@ltgg.ca

File No. 70559

June 22, 2005

Canadian Environmental Assessment Agency
Prairie Office
Suite 445, 123 Main Street,
Winnipeg, MB, R3C 4W2

Attention: Mr. Gerry Tessier
Senior Program Officer

Dear Sir:

Re: Red River Floodway Expansion Project
Response to the Federal Screening Report on the CEC


The Municipalities of Springfield, East St. Paul and St. Clements are pleased to enclose their Submission on the Federal Screening Report.

The Submission has also been sent by email to the email address contained in the Screening Report.

Yours truly,

LEVENE TADMAN GUTKIN GOLUB LLP

Per:


ORVEL L. CURRIE

/jw

Encl.

**THE RURAL MUNICIPALITY OF SPRINGFIELD,
THE RURAL MUNICIPALITY OF ST. CLEMENTS
and THE RURAL MUNICIPALITY OF EAST ST. PAUL**

**SUBMISSION TO THE FEDERAL SCREENING
REPORT ON THE RED RIVER FLOODWAY
EXPANSION PROJECT**

ORVEL L. CURRIE
LEVENE TADMAN GUTKIN GOLUB LLP
Barristers and Solicitors
7th Floor - 330 St. Mary Avenue
Winnipeg, Manitoba, R3C 3Z5

Phone No. 957-6401

Solicitor for the Rural Municipality of Springfield,
the Rural Municipality of St. Clements and the
Rural Municipality of East St. Paul

**Canadian Environment
Assessment Agency
Winnipeg
RECEIVED**

JUN 22 2005

**REÇU
Agence canadienne
d'évaluation environnementale
Winnipeg**

EXECUTIVE SUMMARY

The Rural Municipality of Springfield, East St. Paul and St. Clements are pleased to make the following recommendations and comments on the Screening Report:

Recommendation #1

That the ALARA (as low as reasonably achievable) principle be adopted when considering the floodway expansion and its environmental effects.

Recommendation #2

That a 3rd party peer review committee be established with representation from the Municipalities.

Recommendation #3

That clear guidelines be set out for meaningful participation and input by the Municipalities where that input is suggested in the Screening Report.

Recommendation #4

That a health based risk assessment be a condition of approval of the project

Recommendation #5

That the Screening Report establishes conditions of approval including a comprehensive baseline study, a comprehensive groundwater-monitoring program, ensure that there is no additional groundwater leakage to the Floodway, establish procedures and protocols to deal with diverse water quantity and quality effects and establish a arms-length appeal body for adjudication of claims regarding groundwater issues.

Recommendation #6

That the MFA be directed to consult with the Municipalities to design and implement strategies to minimize the loss of ground water into the floodway.

Recommendation #7

That the Screening Report place a condition on the expansion of the Floodway requiring the MFA to rebuild and replace the bridge crossing at Dunning Road or construct a new bridge between Birds Hill park and Donald Road.

The Rural Municipality of Springfield, East St. Paul and St. Clements comments on the Screening Report

1. The Rural Municipality of Springfield, East St. Paul and St. Clements (the Municipalities herein) provide comments on the Federal Screening Report produced pursuant to the assessment of the effects of the expansion of the Red River Floodway on the environment (the Project).
2. It is understood by the Municipalities that in accordance with subsection 18(3) of CEAA, the Responsible Authorities are making the Screening Report available for public review and comment and that the Screening Report and the comments received from the public will be taken into consideration before the Responsible Authorities (RA) take a course of action on this Project.
3. The Municipalities wish to reaffirm their position on the expansion of the floodway. The Municipalities are supporters of this Project and see the need for flood protection as critical and for the benefit of all Manitobans. However, it remains their position that the project must be completed properly. Therefore the Municipalities make the following recommendations to enhance the Screening Report and environmental review of the project.

Recommendation #1

That the ALARA (as low as reasonably achievable) principle be adopted when considering the floodway expansion and its environmental effects

4. This project and the proponent of this project must be guided by accepted principles of environmental practice ensuring that the detrimental environmental effects of the project are reviewed within the context of the ALARA principle. (As low as reasonably achievable).
5. The ALARA principle recommends, for each exposure situation reducing environmental risks to levels that are as low as reasonably achievable, taking into consideration economic and social factors.
6. ALARA is a moving target, as developing societal values and advancing techniques may change what is currently regarded as “reasonably achievable” or the “best practicable” or “best available”. ALARA reminds project proponents that it is no longer largely about differential cost/benefit analysis and now mainly about a culture of safety and environmental protection. It leads to a questioning attitude “can we do better?”

Recommendation #2

That an independent 3rd party peer review committee be established with representation from the Municipalities

7. Include in the Screening Report a condition that 3rd party peer review committee be established with representation from the Municipalities to review the EMP, CPEPP, OPEPP and construction of the expansion.
8. The 3rd party peer review committee to make recommendations to the RA's for consideration with respect to these EMP, CPEPP, OPEPP reports.
9. The report requires the MFA report to the RA's for approval of the EMP, CPEPP and OPEPP. This creates an effective reporting scheme for the RA but does not create public transparency and involvement or meaningful input. Eliminating public involvement through these critical processes is not in keeping with the emerging trend in environmental reviews which seek meaningful public involvement. It is proposed that it is no longer acceptable practice to simply leave the construction of projects and the consideration of the environmental effects of the project to the proponent and the government departments having jurisdiction. CEAA recognizes in its preamble the need for public participation *and promotes public participation* (emphasis added) in the environmental assessment process. The EMP, CPEPP and OPEPP are all part of the assessment process.
10. The strong recognition of public participation was considered in the five-year review of CEAA, when amending legislation was tabled in Parliament on 20 March 2001. In introducing the proposed measures, the Minister of the Environment identified three general goals:
 - to increase the predictability of the process;
 - to enhance the quality of assessments;
 - **to ensure more meaningful public participation.**
11. The Brundtland Report² considered public participation and concluded that the goal of sustainable development was contingent upon effective participation by citizens in the decision-making process. "The law alone cannot enforce the common interest,"in the decisions that affect the environment" implying the need for improved public access to information and more effective channels for public input.

² the Brundtland Report The World Commission on Environment and Development, Our Common Future (Oxford: Oxford University Press, 1987).

12. Public participation has been considered a central component of contemporary EIA regimes. This recognizes that the environment cannot be narrowly defined, nor can the impacts of projects be assessed solely scientifically. The human aspects of project development, beyond economic prosperity as defined by Western conceptions, may be explored. Moreover, the emphasis on public participation in all of these documents reflects the fact that neither science nor government departments can provide an effective EIA from their perspective alone.
13. Public involvement is critical to their understanding of environmental issues where a project is proposed and may have detrimental environmental effects. This public review is a key component to a successful review of a project. Public involvement must be more than reports from government authorities with assurances that issues are being reviewed, considered and mitigated where necessary. Public involvement requires meaningful input by stakeholders and participants after being informed of the conditions that exist and the proposed measures to take into account any adverse effects.
14. An example of the effect of positive public input in this project was the change by the proponent from deepening the floodway channel to widening the channel. Prior to intensive public review it was contemplated by the floodway authority to deepen the channel by as much as 6 (six) feet in some areas. Following a public review the MFA changed their position to less than 2 feet. As a result of a further review by the Municipalities experts, that position was changed to widening only with no deepening.
15. Public involvement comes with complications. Attempting to balance environmental concerns can result in a difference of opinions. Indeed often these differences are matters which cannot be resolved between a proponent of a project and the public. However, an approach which leaves the final decisions only to the proponent of the project or the RA can lead to an erosion of public confidence in the process of environmental review. Conversely a process which allows members of public to impose their will on the proponent and RA or place the project on hold for principles which are not supported by ALARA leads to a completely ineffective project review and implementation. A properly constructed third party peer review committee provides objective management of public concerns. The implementation of a 3rd party peer review committee achieves the objective of meeting a balance between public confidence that experts not directly connected to the project or subject to political influence are reviewing the project with ALARA principles and meeting the demands of the proponent to have the project completed on a timely and cost effective basis.
16. The Screening Report acknowledges the need for the Responsible Authorities to consider that:

“the approach to environmental protection must also include appropriate oversight during construction of the Project. Such oversight will help to ensure that mitigation measures are implemented according to plan and timely action can be taken to address unforeseen or unexpected situations during construction.”

17. A third party peer review committee would support this oversight function during construction ensuring that the public (participants) have a clear understanding of and input into the mitigation measures that are implemented.

18. The CEC acknowledged a similar need and supported this concept in their review making the following 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 modeling 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.”

19. The use of a third party peer review committee ensures several objectives including:

- It provides a degree of comfort for public concern over a proponent’s actions or decision regarding construction of a project

- It allows for public transparency, input and acceptance
- It allows the proponent of a project to proceed without significant interference by persons who do not understand ALARA or who hold to a fixed position notwithstanding a project's merit. In short it protects both the project and the public.

Recommendation #3

That clear guidelines be set out for meaningful participation and input by the Municipalities where that input is suggested in the Screening Report

20. Several of the conditions in the Screening Report require consultation with both the public and the Municipalities. For example:

- “The MFA develop and provide to the RAs for review and approval prior to construction, the CPEPP dealing with groundwater..... The CPEPP shall also outline how the MFA, in consultation with Rural Municipalities, will identify sensitive groundwater areas along the Floodway Channel and develop a model for determining whether further mitigation measures are necessary to ensure these areas are protected from effects as a result of the Project.”
- The CPEPP will also include the MFA's plans for on-going and site-specific groundwater monitoring. This plan shall be provided prior to construction. The plan shall include how the MFA intends to consult with stakeholders during the implementation of the plan. The MFA shall also indicate how the MFA's groundwater monitoring program will relate to the proposed regional groundwater study.
- The MFA shall report to the RAs how it will address sensitive groundwater areas and the results of the consultations with Rural Municipalities, prior to construction.

21. Consultation can simply be a request for input, which input can be set aside without meaningful review. Consultation may also be a meeting wherein a project proponent tells the public what they intend to do. Meaningful consultation must include not only input but a reasonable belief that that input will be acted upon. Without some manner to require the MFA to take the consideration of the Municipalities into account, the consultation from the Municipalities prospective will be meaningless. If a consultant appointed by the Municipalities were to be part of the 3rd party peer review committee the Municipalities believe the objective of meaningful consultation would be met without complication or delay.

Recommendation #4**That a health based risk assessment be a condition of approval of the project**

22. The Screening Report recommends that a health based risk assessment be considered. The CEC makes a health-risk assessment a condition of approval for a license.

“7.4 The Manitoba Floodway Authority carry out a comprehensive Floodway related health-risk assessment.”

23. The Municipalities request that the CEC recommendations be supported by making a health based risk assessment a condition of approval of this project by the RA's.

Recommendation #5

That the Screening Report establishes conditions of approval including a comprehensive baseline study, a comprehensive groundwater-monitoring program, ensure that there is no additional groundwater leakage to the Floodway, establish procedures and protocols to deal with diverse water quantity and quality effects and establish a arms-length appeal body for adjudication of claims regarding groundwater issues.

24. The CEC after extensive hearings made the following recommendations which it is submitted should be placed in the Screening Report:
- a. A comprehensive baseline study be completed with respect to groundwater quality and quantity along the full length of the Floodway. This baseline study shall include information regarding groundwater elevations, major ion chemistry, compounds of concern such as pesticides, and bacteriological analysis.
 - b. That a comprehensive ongoing groundwater-monitoring program be designed based on the results of the baseline. It shall specify monitoring well depths and general locations.
 - c. That the MFA ensure that there is no additional groundwater leakage to the Floodway as a result of expansion.
 - d. The MFA establish procedures and protocols to deal with diverse water quantity and quality effects for the construction phase.

- e. An arms-length appeal body be established to adjudicate claims regarding groundwater issues, this body to have the ability to respond quickly to public concerns regarding groundwater.

Recommendation #6

That the MFA be directed to consult with the Municipalities to design and implement strategies to minimize the loss of ground water into the floodway.

- 25. The continued loss of groundwater into the floodway is an environmental issue that was not measured in a baseline study. Therefore it will be impossible for the public to determine whether the new expanded floodway has increased groundwater loss. The only solution to this is to have the MFA take measures which will mitigate the loss of water generally thereby ensuring that any expansion will not result in further groundwater loss.

Recommendation #7

That the Screening Report place a condition on the expansion of the Floodway requiring the MFA to rebuild and replace the bridge crossing at Dunning Road or construct a new bridge between Birds Hill Park and Donald Road

- 26. Among the 3 Municipalities as many as 8000 citizens depend on the Dunning Road Bridge. Historically the Floodway impacts the bridge each year. With the expansion it can be anticipated that the effects will be greater and with the new summer operation rules the effects will be both greater and longer.
- 27. Once the expansion takes place there is a critical safety issue for the residents. Widening ensures a greater amount of water will travel through the floodway. During flood events in the past the Dunning Road Crossing was unsafe to travel and emergency vehicles were rerouted taking a considerable longer time to reach the residents. With the expanded floodway it is predicted that the problem will be greater and with the new summer operation rules, the effects will be for longer periods of time. Each year the cost of repair for the bridge during flooding events is born by the Municipality of St. Clements.
- 28. As discussed earlier in this response environmental effect are much greater than simply impacting the environment alone and must take into account the social impacts of the project.

CONCLUSIONS

29. The Municipalities restate their support of the project providing the project is done in a manner which is environmentally safe and sustainable and look forward to work in a cooperative relationship with the RA's and MFA.
30. The RA's through the screening report are in a position to confirm the principle of meaningful Public input using a balanced approach of a 3rd party peer review committee. The RA's further have the opportunity to fulfill their obligations under CEAA by supporting the CEC recommendations as conditions for approval in the Screening Report.