



# MANITOBA ECO-NETWORK

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Tel: 204-947-6511 [www.mbeconetwork.org](http://www.mbeconetwork.org)

## **MbEN Comments – EAC Consultation on the Manitoba Water Management Strategy** **September 11, 2020**

The Manitoba Eco-Network (MbEN) appreciates this opportunity to participate in the Expert Advisory Council's (EAC) public engagement process for the [Manitoba Water Management Strategy](#). Since 1988, MbEN has promoted positive environmental action by supporting people and groups in our community. MbEN has recently transitioned our programming to focus more on policy advocacy, engagement in consultation processes and developing capacity building tools that benefit the environmental non-profit sector and our member groups. We welcome more opportunities in the future to work with the Expert Advisory Committee in the development of new policies, plans and programs.

After reviewing the EAC's consultation document we feel there is a need for more meaningful public engagement before a Water Management Strategy is developed. Based on our knowledge of water management issues in Manitoba, the proposed scope of the strategy is too narrow and will not effectively address the full scope of water management issues that are facing Manitobans today. For example, we would like to see more of the following included in Manitoba's Water Management Strategy:

- Water management in Northern Manitoba. This includes incorporation of Indigenous led research and ideas about how to improve regulatory requirements, licensing and management processes in northern MB.
- Stronger monitoring practices, the collection of water quality data and the availability of baseline data.
- Acknowledgement and role of the [Lake Winnipeg Community-Based Monitoring Network](#).
- The enhancement of enforcement mechanisms to protect water resources.
- Microplastics.
- Shoreline protection.
- The withdrawal of water for the production of bottled water.
- Acknowledgement of past and current environmental impacts Indigenous communities have faced because of water management practices. The plan should also reference treaty relationships, the province's duty as a Crown treaty partner, and *The Path to Reconciliation Act* as examples of existing provincial commitments that the province needs to fulfil.
- Indigenous knowledge, for example, it would be great to see a discussion of the sacred role of water for Indigenous communities.
- Restoring and enhancing ecosystem functions' as a stronger priority. 'No net loss' is too weak considering how dramatically we have already altered Manitoba's hydrological systems. Specifically, we would recommend strengthening priority #3 (p. 28) to talk about enhancement rather than maintenance of the degraded status quo.

The remainder of the submission answers the following questions:

7. Do you know of any best practices in other jurisdictions that should be looked at to inform a future Strategy for Manitoba?
8. Are there any other specific programs, policies, approaches that you would like to suggest?
9. What do you consider to be the most important aspects of a Water Strategy for Manitoba?

We feel that the development of a new Manitoba Water Strategy is an important opportunity for the Government of Manitoba to recognize Canada's international water commitments, address the interjurisdictional nature of Manitoba's water and strengthen Manitoba's regulatory framework. Water is vital for all forms of life and all Manitobans depend on so it is important that further consultation opportunities occur so members of the general public can provide input into a policy that will affect us all.

### **Recognizing Canada's International Commitments**

There are other jurisdictions in Canada, like Alberta and Saskatchewan, with water management practices that should be considered in the development of Manitoba's Water Management Strategy. There is also a need to incorporate elements of international water management principles and address Canada's international water commitments.

MbEN feels that one way to help accomplish this would be to base the Strategy on the UN's Sustainable Development Goals and associated approaches for achieving sustainable management of water resources. Since 2003, when the [UN Water for Life Decade](#) (2005-2015) was proclaimed, the UN has "[e]mphasiz[ed] that water is critical for sustainable development, including environmental integrity and the eradication of poverty and hunger, and is indispensable for human health and well-being." During this decade hundreds of local governments across Canada, including Winnipeg, adopted the UN's position and recognized that:

*Water is a sacred gift that connects all life;  
Access to clean water is a basic human right;  
The value of the Earth's fresh water to the common good takes priority over any possible commercial advantage; and  
Fresh water is a shared legacy, a public trust and a collective responsibility.*  
(City of Winnipeg Council Minutes, March 22, 2006, Minute No. 375)

As we are now in the [UN Water for Sustainable Development Decade](#) (2018-2028), it is important that the Manitoba Water Management Strategy build on the international work already accomplished and include elements of the UN's approach to sustainable water management as stated in [A/RES/71/222](#), which recognizes:

- [W]ater is critical for sustainable development and the eradication of poverty and hunger, that water, energy, food security and nutrition are linked and that water is indispensable for human development, health and well-being and a vital element of achieving the Sustainable



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Development Goals and other relevant goals in the social, environmental and economic fields;

- [L]ack of access to a safe drinking water source, basic sanitation and sound hygiene, water-related disasters, water scarcity and water pollution will be further exacerbated by urbanization, population growth, desertification, drought and other extreme weather events and climate change, as well as by the lack of capacity to ensure integrated water resource management;
- [T]he slow progress in advocating for and addressing existing gaps in gender mainstreaming and the empowerment of women hampers the achievement of sustainable development goals and targets;
- [M]any water-related ecosystems are threatened by poor management and unsustainable development and face increased uncertainty and risks owing to climate change and other factors;
- [T]he importance of promoting efficient water usage at all levels, taking into account the water, food, energy, environment nexus, including in the implementation of national development programmes;
- [T]he importance of the participation and full involvement of all relevant stakeholders, including women, children, young people, older persons, persons with disabilities, indigenous peoples and local communities, in the implementation of the Decade at all levels.

There is also a need for the Manitoba Water Management Strategy to align with the international environmental commitments Canada has made. For example, as a signatory to the UN Convention on Biological Diversity, Canada has developed targets to meet the [Strategic Plan for Biodiversity 2011-2020](#), which includes the *Aichi Biodiversity Targets*. The targets that Canada has adopted in relation to water and should be included in the Strategy are as follows:

- *Target 1:* By 2020, at least 17 percent of terrestrial areas and inland water, and 10 percent of coastal and marine areas, are conserved through networks of protected areas and other effective area-based conservation measures. (Note: Target 1 has not been met, but the current Federal government is moving forward with a [mandate](#) to conserve 25 percent of Canada's land and 25 percent of Canada's oceans by 2025, working toward 30 per cent in each by 2030.)
- *Target 3:* By 2020, Canada's wetlands are conserved or enhanced to sustain their ecosystem services through retention, restoration and management activities.
- *Target 9:* By 2020, all fish and invertebrate stocks and aquatic plants are managed and harvested sustainably, legally and applying ecosystem-based approaches.
- *Target 10:* By 2020, pollution levels in Canadian waters, including pollution from excess nutrients, are reduced or maintained at levels that support healthy aquatic ecosystems.

- *Target 15:* By 2020, Aboriginal traditional knowledge is respected, promoted and, where made available by Aboriginal peoples, regularly, meaningfully and effectively informing biodiversity conservation and management decision-making.

Manitoba's Water Management Strategy should also include the elements of the [United Nations Declaration on the Rights of Indigenous Peoples](#) that relate to water, such as:

- *Article 8:* States shall provide effective mechanisms for prevention of, and redress for: [...] (b) Any action which has the aim or effect of dispossessing [Indigenous peoples] of their lands, territories or resources;
- *Article 19:* States shall consult and cooperate in good faith with the Indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them.
- *Article 25:* Indigenous peoples have the right to maintain and strengthen their distinctive spiritual relationship with their traditionally owned or otherwise occupied and used lands, territories, waters and coastal seas and other resources and to uphold their responsibilities to future generations in this regard.
- *Article 29:*
  1. Indigenous peoples have the right to the conservation and protection of the environment and the productive capacity of their lands or territories and resources. States shall establish and implement assistance programmes for Indigenous peoples for such conservation and protection, without discrimination.
  2. States shall take effective measures to ensure that no storage or disposal of hazardous materials shall take place in the lands or territories of Indigenous peoples without their free, prior and informed consent.
  3. States shall also take effective measures to ensure, as needed, that programmes for monitoring, maintaining and restoring the health of Indigenous peoples, as developed and implemented by the peoples affected by such materials, are duly implemented.
- *Article 32:*
  1. Indigenous peoples have the right to determine and develop priorities and strategies for the development or use of their lands or territories and other resources.
  2. States shall consult and cooperate in good faith with the Indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources.
  3. States shall provide effective mechanisms for just and fair redress for any such activities, and appropriate measures shall be taken to mitigate adverse environmental, economic, social, cultural or spiritual impact.

### **Recognizing the Interjurisdictional Nature of Water**

It is important that the Water Management Strategy recognizes the interjurisdictional nature of water and includes stronger commitments to work with other levels of government and Indigenous governments to coordinate conservation efforts.



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The current Federal Ministry responsible for water, Environment and Climate Change Canada (ECCC) has been mandated to:

*... create a new Canada Water Agency to work together with the provinces, territories, Indigenous communities, local authorities, scientists and others to find the best ways to keep our water safe, clean and well-managed."*

With a new water agency there will be opportunity to update and modernize the *Canada Water Act* to incorporate many of the articles contained in UNDRIP.

*The Canada Water Act provides an enabling framework for collaboration among the federal, provincial and territorial governments in matters relating to water resources. Each level of government has different roles related to the management of water resources. Joint projects involve the regulation, apportionment, monitoring or surveying of water resources, and the planning and implementation of programs relating to the conservation, development and utilization of water resources. As well, there are many areas of shared responsibility.*

(Canada Water Act, Annual Report April 2015 to March 2016, Environment and Climate Change Canada.)

In developing the Manitoba Water Management Strategy, it would be advantageous to coordinate efforts with the Federal government in developing a new Agency and framework for collaboration.

Another opportunity for improving interjurisdictional collaboration is the *Canada-Manitoba Memorandum of Understanding Respecting Lake Winnipeg and the Lake Winnipeg Basin*, an agreement in place since 2010. The purpose of the Lake Winnipeg MOU is,

*to facilitate a cooperative and coordinated approach between the Parties in their efforts to understand and protect the water quality and ecological health of Lake Winnipeg and its basin, and achieve a healthy, prosperous and sustainable Lake Winnipeg for present and future generations."*

Updating Manitoba's Water Management Strategy is an opportune time to strengthen existing interjurisdictional commitments by including Indigenous governments as a Party to the MOU and to have this cooperative and coordinated approach reflected in the new Strategy. Good examples of strong Indigenous involvement in water governance include the [Nicola Watershed Governance Project](#) in BC and the NWT [Mackenzie River Basin Transboundary Water Agreements](#).

It is important that the Manitoba government work with Indigenous communities to collaboratively identify water management priorities and develop shared solutions that respect Indigenous self determination, knowledge systems, and UNDRIP. This should include provincial funding to support this work.

### **Strengthening Manitoba's Regulatory Framework:**

There are changes needed to a number of pieces of legislation in Manitoba in order to create a more robust water governance framework. Manitoba's Water Management Strategy should include commitments to making these regulatory improvements.

Given the stresses on Lake Winnipeg from excess nutrients from agriculture, other pollutants of concern, hydro development, human settlement and climate change, incorporating recent recommendations from the Manitoba Clean Environment Commission review of the [Lake Winnipeg Regulation Project](#) into the Manitoba Water Strategy would be a way to strengthen commitments to improving Manitoba's water governance framework. For example, relevant recommendations from the CEC include:

- 9.1 The Government of Manitoba evaluate the current licensing regime for hydro projects and ensure that legislation and regulation is consistent with modern legislative, consultation and environmental standards.
- 9.2 The Government of Manitoba require relicensing of hydro projects to be done under *The Environment Act*, in addition to or in lieu of any other water management legislation.
- 9.3 The Government of Manitoba undertake a review of any licence issued for hydro projects, on specified anniversary dates, to assess the level of compliance and adjust licensing conditions as required.
- 10.2 The Government of Manitoba develop a climate change risk and adaptation planning framework for individuals and communities in the Lake Winnipeg watershed.
- 10.3 Manitoba Hydro develop a climate change risk and adaptation planning framework for its system.
- 10.4 The Government of Manitoba require an environmental assessment of Lake Winnipeg Regulation prior to relicensing.
- 10.7 The Government of Manitoba require that the relicensing of all existing hydro projects be done under *The Environment Act*, with the further requirement for a full environmental assessment, which incorporates ATK.
- 10.8 The Government of Manitoba require that the relicensing of all existing hydro projects be subject to a public review.
- 10.10 The Government of Manitoba charge an independent body to review policies, statutes, goals, objectives and outcomes of the various water-related environmental policies and strategies to ensure there is consistency between them and that they meet the desired result of watershed and/or ecosystem-wide approaches.

Recommendation 10.10 is particularly important as there is currently no independent oversight body for the Province's environmental regulatory system, including water management issues, and citizens have had to rely on the Auditor General of Manitoba and the Office of the Ombudsman to address issues of environmental governance. A dedicated oversight body with staff that have specific knowledge and expertise of Manitoba's environmental governance framework, along with a budget to support a range of investigatory and enforcement actions is needed.



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There is also a need to reconsider the way water licences are issued and water rights are assigned in Manitoba in order to ensure water is managed in a more sustainable way, meet the urgent concerns identified by the United Nations and to include the principles espoused by UNDRIP.

*“Manitoba uses the prior appropriation water doctrine, where water is appropriated and priorities are established by the first in time, first in right principle. The license/permit issued by Manitoba, prioritizes the order of use relative to other users by the date of the license/permit. The latest license/permit holder is the first one restricted or cut off in times of water shortage.”*

(Red River Water Law Study, Red River Basin Commission, Manitoba Water Stewardship, International Joint Commission, March 25, 2006)

This ‘first in time, first in right’ approach does not account for water required to maintain healthy, functioning aquatic ecosystems and in times of drought and severe water shortages, those who have newer permit dates will be the first to be cut off. Priority of purpose (Domestic, Municipal, Agriculture, Industrial, Irrigation and Other) should be the primary allocation consideration, especially in times of drought and water shortages. There is also a need for instream flow to be better regulated in Manitoba and be included as more than just a discretionary consideration. Drought contingency plans needs to be incorporated into the water permitting process as well as at the watershed and basin level.

The conclusions from the [Assiniboine River Water Demand Study](#) support this need for reconsideration of Manitoba’s water governance approach and regulatory reform:

*\* Water demand on the Assiniboine River will continue to increase over the study period and may exceed the firm annual yield estimate currently used for licensing allocations in the later part of the study period.*

*\* Climate change is expected to have a significant impact on the demand and supply requirements of the Assiniboine River. More detailed study is required to understand the potential for peak usages in months where river flows are low.*

*\* The instream needs of the Assiniboine River are not well quantified and should be studied further as they account for a considerable allocation of water.*

## **Conclusion**

MbEN sees the development of the Manitoba Water Management Strategy as an important opportunity to improve Manitoba’s water governance framework and ensure more sustainable water management practices are adopted in our province.

Due to the importance of water to all Manitobans, there is a need for further public engagement and consultation before the Water Management Strategy is finalized. We have identified a broad range of issues that require further public discussion and need to be better

addressed in the Strategy. We also feel there is a need for better recognition of Canada's international water commitments, more effective interjurisdictional coordination, including collaboration with Indigenous governments, and commitments to strengthen Manitoba's regulatory framework.

MbEN appreciates this opportunity to provide input into the development of the Manitoba Water Management Strategy. We look forward to and welcome future opportunities to collaborate with the Expert Advisory Council and the Government of Manitoba in the development of stronger environmental laws and policies in our province.

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