



MANITOBA ECO-NETWORK

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January 5, 2022

Honourable Sarah Guillemard
Minister of Climate and Conservation
mincc@leg.gov.mb.ca

Dear Minister Guillemard,

Re: MbEN Comments – CEC Recommendations – Contaminated Sites

The Manitoba Eco-Network (MbEN) appreciates the opportunity to comment on the Clean Environment Commission's Recommendations for reform of *The Contaminated Sites Remediation Act* (CSRA). Since 1988, MbEN has promoted positive environmental action by supporting people and groups in our community. MbEN's programming focuses on policy advocacy, engagement in consultation processes and developing capacity building tools that benefit the environmental non-profit sector and our member groups.

After reviewing the CEC's *Review of Legislation and Programs for Sites Impacted by Development* (2020) and attending the consultation session hosted by the Manitoba Environmental Industries Association (MEIA) in December 2021, MbEN has identified some additional reforms that should be considered by the Government of Manitoba when developing a CSRA reform bill.

The Role of the Public:

The CEC's review would have benefited from the consideration of input from the public, the environmental community, Indigenous governments and organizations, and academic experts (including peer-reviewed academic publications) instead of focusing solely on government and industry sources of information. We find the CEC recommendations to be narrow in scope and feel they will not result in the fundamental changes needed in Manitoba's environmental governance framework to push our society in a more inclusive and sustainable direction. Since one of the main purposes of the Clean Environment Commission is "developing and maintaining public participation in environmental matters" (*The Environment Act*, s 6(1)(b)), the CEC is well positioned to collect and incorporate public feedback, which would have substantially improved the review process for this Report.

There is currently little to no role for the public in the regulatory processes governing the identification and remediation of contaminated sites. There is a need for reforms that will create opportunities for members of the public, at a minimum, to identify potentially contaminated sites and trigger a site investigation. For example, a new section should be added to Part 2 that outlines the process for public reporting of potentially contaminated sites and the obligation of government to investigate and publicly report the outcome of a citizen-triggered investigation.

There is also a need to develop reforms that improve public access to information about contaminated and impacted sites. The CEC's consideration of the contaminated sites registry was minimal and although the CEC acknowledged that "some improvements could be undertaken", there is no discussion or corresponding recommendations included to provide further insight into what these improvements should consist of. MbEN agrees that improvements to the registry and the availability of public information need to be made, including public reporting requirements, identifying the decision-making criteria and other information that must be included in public reports, and updating the registry to become a more accessible database that consolidates all related information about a potentially contaminated, contaminated, or remediated site, and any follow-up or monitoring data.

Sustainable Development:

There is also a need to consider updating the language of the CRSA to better align with the language used in international and federal sustainable development laws, policies, and publications. For example, there could be specific reference to and alignment with the Sustainable Development Goals (SDGs) in the Preamble, s 1(1) (Purpose), and s 1(2) (Principles of sustainable development). Overall, there is a need to take a modern approach to reform of the CRSA and ensure that proposed reforms reflect more than an industry perspective.

Polluter Pays Principle:

MbEN agrees that the polluter pays principle should be retained in the legislation as an important legal principle and factor to consider in the recovery of costs. We recommend adding reference to the polluter pays principle in the Preamble of the CSRA and updating section 21(a) to use language that better aligns with the polluter pays language used in section 1(1)(c)(i).

Standards and Reporting:

MbEN agrees with the CEC's recommendations to specifically reference in the CSRA and related regulations publicly available codes of practice, protocols, and guidance documents outlining appropriate remedial actions and other required steps and standards that must be met by the individuals responsible for taking and overseeing remedial actions. It is important that non-compliance with identified codes, standards and guidance be enforceable under the CSRA. It is also important to consider codes, standards and guidance from leading environmental organizations. For example, the [Canadian Council of Ministers of the Environment](#) (CCME) have developed a range of guidance documents and standards for contaminated sites that should be considered when identifying appropriate best practice standards and codes to reference in the CSRA. All codes, standards, and guidance referenced in the CSRA should also be made publicly available in the registry.

MbEN also supports the CEC's recommendations that certain reports under the CSRA be made publicly available. MbEN suggests all reports made under the CSRA be made publicly available in the registry. This includes, but is not limited to, public reports identifying instances of contamination in exceedance of a standard, identification of the site professional overseeing the investigation and remediation of a contaminated site,

classification of a potentially contaminated site, the steps being taken to remediate a site, the nature of the site contamination, and monitoring and follow-up plans and data.

MbEN appreciates your consideration of our comments about the CEC's Recommendations for reform of *The Contaminated Sites Remediation Act* and welcomes future opportunities to engage with the Department on issues of law reform in Manitoba to ensure the highest level of environmental protection measures are required. We would appreciate being informed of any CSRA amendments and be given the opportunity to provide feedback prior to their introduction in the Legislature or publication in the Manitoba Gazette.

Under *The Environment Act*, the Department of Conservation and Climate is tasked with protecting the quality of the environment and environmental health of present and future generations and providing the opportunity for all citizens to exercise influence over the quality of their living environment. We are confident you will adhere to these principles and ensure any proposed amendments to environmental and natural resource legislation do too.

Sincerely,

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