



MANITOBA ECO-NETWORK

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January 14, 2022

Jonathan Scarth
Chair, Clean Environment Commission
cec@gov.mb.ca

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

Dear Mr. Scarth and Minister Guillemard,

Re: MbEN Inquiry – CEC Public Hearing – Sio Silica Corporation

Since 1988, the Manitoba Eco-Network (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. We have past experience participating in Hearings, Investigations and Mediations conducted by the Clean Environment Commission.

The Manitoba Eco-Network has been engaged in the environmental assessment and licensing process for Sio Silica Corporation's (formerly CanWhite Sands Inc.) proposed silica sand projects since 2020. We plan to apply for Participant status in the upcoming public hearing proceeding to be conducted by the Clean Environment Commission (CEC) for Sio's proposed silica sand extraction project.

MbEN is pleased the Minister has required a CEC hearing to allow for independent review of Sio's proposed development, however, we find it concerning that there has been no Participant Assistance Program (PAP) established for this hearing. In Manitoba it has been standard practice since 2001 to establish a PAP for all CEC hearings involving the review of a proposed development as it enhances the capacity of individuals and groups, who often have no or limited resources, to meaningfully participate in these important public processes. It is unclear why this practice is being disregarded for the upcoming CEC hearing.

We are also concerned that the Terms of Reference provided by the Minister is too narrow in scope and will not allow for the CEC to consider important issues, such as cumulative effects, and whether this development should be allowed to proceed and licensed under *The Environment Act*. It should not be a foregone conclusion that this proposed development will be issued a final Licence. It is also concerning that Sio's associated Vivian Sand Processing Facility is not included in the scope of the CEC hearing and has already been granted an Environmental Act Licence.

MbEN also finds it problematic that Sio has not been required to produce an assessment report under s 11(9) of *The Environment Act* and partake in a public scoping exercise to address the range of information missing from the submitted EAP prior to the public hearing. As identified by the Technical Advisory Committee and concerned community members, it is particularly important that Sio be required to provide copies of their Water Characterization and

Management Plan, Water Management Plan, Groundwater Monitoring and Impact Mitigation Plan, and Progressive Well Abandonment Plan as part of the assessment process and for review prior to the issuance of a Licence.

Since there have been few details released about the hearing proceedings following Minister Guillemard's announcement in December 2021, we would appreciate further clarification on the following matters:

- *Notice*: When should we expect the CEC to publish a hearing announcement and details about the hearing process?
- *Independent Experts*: When will information (e.g., C.V.) about the independent expert(s) hired by the CEC to review Sio's EAP and other technical documents be available?
- *Access to Information*: Will Sio be required to provide additional public information about the proposed development prior to the hearing? Will the review report(s) from the CEC's independent expert(s) be made publicly available? Will there be an information request process?
- *Public Participation*: Will the proceedings include the same level of Participant and public involvement as past CEC hearings (i.e, in the last two decades), as described in the CEC Process Guidelines Respecting Public Hearings? This includes, but is not limited to:
 - Pre-hearing meetings and motions;
 - A robust Information Request process;
 - Hiring of expert witnesses by Participants;
 - Opening and Closing Statements; and
 - Cross-examination of expert witnesses.

As you know, public hearings are an important means of enabling interested and affected members of the public to provide input into the environmental assessment and licensing process in Manitoba. There are many benefits to meaningful public participation in environmental assessment processes, as recognized in the Manitoba Law Reform Commission's [Final Report #130](#) and a wealth of international and Canadian literature. These benefits include enhancing the legitimacy of proposed projects, ensuring proposed projects meet the needs of the public, providing access to local and traditional knowledge from diverse sources, and encouraging more balanced and accountable decision-making.

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 that these principles will be reflected in the format and scope of the the public hearing held by the CEC, as well as the final licensing decision for Sio Silica Corporation's silica sand extraction project.

Sincerely,

Heather Fast, B.A., J.D., LL.M.
Policy Advocacy Director

Glen Koroluk
Executive Director