

November 26, 2019

REFERENCE NO:

To All Participants

118388-0001

Dear Participants,

Brian J. Meronek, Q.C.

**Re: Lake Manitoba Flood Class Action
Queen's Bench File No. CI 13-01-82597**

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Further to my report of September 26, 2019, there are new developments to report.

Firstly, while there are no serious settlement negotiations being conducted at this point in time with the Government, we did have conversation with the lawyers for the Government, and indicated that we needed to put some shape around the damages. By that I mean, we would like to know the amount of the total claims made to MASC and the amount that was paid out in total. It will give us some idea of the percentage of compensation not paid and will form the basis for engaging in discussions as to the compensation claim.

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More importantly, we have agreed to exchange expert reports to determine the issue of the extent to which, if any, in percentage terms, the flooding that was caused by natural events. In my view, the onus is on the Government to prove that any of the flood was caused by natural events. If we can establish that the flooding was caused through man-made efforts in the form of operating the Portage Diversion, which we can, then the Government is going to have to establish that it was less than 100%. The results of the expert reports will inform of us as to the appetite for settling that the government has, if any.

Services provided by:
Brian Meronek Law Corporation

In the meantime, so as not to allow the matter to languish any further, we appeared before the case management judge, Justice McKelvey, on Friday, November 22, 2019. She was very sympathetic with our concerns with respect to the delay that has been created and has set trial dates for three weeks on February 22, 2021 and March 12, 2021. I recognize that it is 15 months away, but if this matter is going to trial, there is a lot of work to be done. What we have accomplished is to restrict the trial to a claim of nuisance and have abandoned our claim of negligence. The claim of nuisance is a lot more straight forward and eliminates the need to move that the Government may have breached its duty in terms of protecting the residents and business owners around Lake Manitoba.

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That concession in and of itself will save a massive amount of time, both in preparation and days or weeks of trial. I suspect that if we did not abandon negligence, which is a more difficult claim to prove, we would be adding another three weeks to the trial.

I will provide you with a further update as we proceed in terms of preparing for our court case and achieving our objective of settling the case in a parallel manner.

Yours truly,

DD WEST LLP

Per:



Brian J. Meronek, Q.C.

BJM / yw

c.c. John Howden
Stephen Moran/Shawn Moran
Keith McDermid
William Klym
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