

## **Manitoba Resource Update: Seal River, Silica, Strategy, and More!**

**Authors: John Stefaniuk, K.C.**

*published 03/27/2024*

It's interesting times in the natural resource world in Manitoba, as the new provincial government sets its agenda.



### ***Seal River Watershed MOU***

On January 18, 2024, the Governments of Canada and Manitoba, Indigenous nations, and the Seal River Watershed Alliance signed a Memorandum of Understanding (MOU) to complete a feasibility assessment to establish a potential Indigenous protected and conserved area and possible national park reserve in Manitoba's Seal River Watershed. This formalizes the commitment made in a December 2022 announcement at the United Nations Biodiversity Conference.

The Seal River Alliance was formed by the Sayisi Dene First Nation, Northlands Denesuline First Nation, Barren Lands First Nation, and O-Pipon-Na-Piwin Cree Nation, whose ancestral territories include the proposed protected area.

The Seal River Watershed has an area of 50,000 km<sup>2</sup> (about the same area as Denmark) and is described as one of the largest remaining ecologically intact watersheds in the world. Seal River is unaffected by dams or industrial development and flows unhindered into Hudson Bay. Portions of the watershed are already protected by three Manitoba wilderness parks and an ecological reserve. As someone who has visited the Seal River estuary in summer, I can attest to its wildlife diversity that includes polar bears that have adapted the unique skill of hunting beluga whales in their teeming pods.

According to Manitoba's newly elected Minister of Environment and Climate Change, Tracy Schmidt, "The Seal River Watershed study area, which makes up nearly 8 per cent of Manitoba, is a major step forward in our commitment to protect 30 per cent of Manitoba's lands and waters by 2030. The creation of an Indigenous protected and conserved area would allow this ecologically significant watershed to continue to safeguard biodiversity and at-risk species in Manitoba."

The full MOU can be found on the Alliance's website. The MOU provides the feasibility assessment study area with temporary protection from mineral exploration and staking, to first allow a better understanding of the area's geological attributes.

### ***Silica yes, Silica no***

On February 14, 2024, newly elect Premier, Wab Kinew, and Minister Schmidt announced that Canadian Premium Sand intends to use high-grade silica sand extracted from its deposit near Hollow Water First Nation in a new solar glass manufacturing facility to be constructed in the City of Selkirk, Manitoba. The new plant will produce up to 800 tonnes of solar glass per day used in production of solar energy panels. Powered by hydroelectricity, the proposed plant would be North America's only low-carbon patterned solar glass manufacturing facility. It was also announced that Hollow Water First Nation and the Community of Seymourville have entered into confidential agreements with Canadian Premium Sand to ensure economic participation, oversight and environmental and heritage resource stewardship in relation to the sand extraction.

There was no good news for another proposed high-grade silica sand project. On February 16, Premier Kinew and Minister Schmidt announced that Sio Silica would not be receiving an Environment Act licence for its proposed silica extraction and processing project in South-eastern Manitoba. They cited concerns, as contained in the Manitoba Clean Environment Commission's environmental assessment report, regarding the unknown potential impacts of the proposed well extraction of the underground silica sand on regional aquifers. Rather than imposing additional conditions on development in the course of the cabinet approval process for larger-scale projects, the government chose to deny a licence.

During a public press conference at which the decision was announced, Premier Kinew stated, "I want to be very clear: We are prepared to develop mining opportunities here in Manitoba, but it has to be done in the right way ... that minimizes the risk to the health of humans and the safety of the environment. We can do both."

### ***Toward a New Critical Minerals Strategy***

At the 2024 Prospectors and Developers Association Convention in Toronto Manitoba's Premier Kinew, and Economic Development, Investment, Trade and Natural Resources Minister Jamie Moses announced that their government is dedicated to working with Manitobans, Indigenous nations, and industry stakeholders to develop a new critical minerals strategy that will focus on creating good jobs for Manitobans and long-term economic growth in the province.

Manitoba has 29 of the 31 minerals on Canada's 2021 critical minerals list, including lithium, graphite, nickel, cobalt, copper and rare earth elements. The province is inviting public feedback and will be undertaking broader consultation with Indigenous governments,

industry stakeholders and experts to gain insights and share priorities to shape the new strategy.

### ***Administrative Penalties on the Way?***

In response to the public attention garnered by a reported 135 million litre sewage spill into the Red River from a broken City of Winnipeg sewer pipe, Minister Schmidt made it known that her department is looking at amendments to The Environment Act (Manitoba) that would allow deterrence without the need to go to Provincial Court to complete prosecution of alleged violations. This may be a signal that Manitoba is looking at implementing an administrative monetary penalty (AMP) regime.

AMPs are used in many Canadian jurisdictions as a means of censuring non-compliance with a range of regulatory requirements, including environmental health and safety rules. AMPs operate much like tickets; they can be issued during an inspection when violations are encountered, and they carry monetary penalties, which can be very significant. Unlike a formal charge, once the regulator establishes that the facts giving rise to the violation has occurred there is no ability to raise the defences of due diligence.

AMPs are viewed by regulators as efficient tools to discourage non-compliance. Industry often sees them as a burden that does not encourage working with regulators to find solutions. We will see whether this possible development will have an impact on Manitoba's historically cooperative approach toward compliance and enforcement.

As they say on the news, stay tuned for more updates!

***John Stefaniuk*** is a Manitoba-based lawyer who practises environmental and natural resource law.

If you have an environmental or natural resources law matter, **contact John** or any one of our **natural resources and energy law** lawyers.

*This article was written for Mid-Canada Forestry and Mining magazine and is reproduced with permission.*

---

**DISCLAIMER:** *This article is presented for informational purposes only. The content does not*

*constitute legal advice or solicitation and does not create a solicitor client relationship. The views expressed are solely the authors' and should not be attributed to any other party, including Thompson Dorfman Sweatman LLP (TDS), its affiliate companies or its clients. The authors make no guarantees regarding the accuracy or adequacy of the information contained herein or linked to via this article. The authors are not able to provide free legal advice. If you are seeking advice on specific matters, please contact Keith LaBossiere, CEO & Managing Partner at [kdl@tdslaw.com](mailto:kdl@tdslaw.com), or 204.934.2587. Please be aware that any unsolicited information sent to the author(s) cannot be considered to be solicitor-client privileged.*

*While care is taken to ensure the accuracy for the purposes stated, before relying upon these articles, you should seek and be guided by legal advice based on your specific circumstances. We would be pleased to provide you with our assistance on any of the issues raised in these articles.*