

***REPORT ON CERTAIN ASPECTS OF THE
WINNIPEG FLOODWAY PROJECT***

***TO THE MINISTER OF WATER STEWARDSHIP
THE HONOURABLE STEVE ASHTON***

SUBMITTED BY THE FACILITATOR W.N. FOX-DECENT

INTRODUCTION:

In April, 2004, I was asked by the Minister of Water Stewardship, The Honourable Steve Ashton, to facilitate discussions around certain aspects of the Winnipeg Floodway Project.

The Minister asked me, as a first step, to particularly consider labour management issues that were associated with what might be described as “unionization”.

In the following weeks I met frequently with various parties interested in labour management aspects of the Floodway. These included The Building Trades Council (Unions), The Manitoba Federation of Labour, and on the employer’s side, The Heavy Construction Association, The Merit Construction Association, The Winnipeg Construction Association and The Construction Labour Relations Association.

Although total agreement on the detail of all issues was not achieved, most of what follows in this report has been agreed to by the various parties.

They will of course have their own expression of support or otherwise on the content of this report once it has been released.

FLOODWAY AGREEMENTS:

Every construction project with agreements and commitments signed onto by the participants has its unique aspects. The Floodway is no exception.

The Floodway Agreement should not be seen as a precedent establishing some new form of labour practice which will prevail beyond the life of the Floodway Project. As indicated, this is a unique project.

It is recommended that there be a Master Floodway Agreement which would cover a wide range of issues “in principle”, without any level of detail. Such issues would include safety, employment equity, aboriginal participation, training, and the generalities associated with labour management matters. This is not meant to be an exhaustive list of topics which should be contained in the Master Agreement. There may well be others.

Flowing from this Master Floodway Agreement would be several sub-agreements which would include the following:

- labour management
- training
- employment equity

Again, this may not be an exhaustive list and/or there may be a combination of one or more of these sub-agreements into a single agreement.

THE LABOUR MANAGEMENT SUB-AGREEMENT:

No Union Membership Required:

The Floodway Project will be considered to be an open project where union membership is not required to work on the Project. There is, therefore, no “forced unionization” as has been suggested in some of the public comment and media coverage on this issue.

Anyone qualified may work on the Floodway, whether they are non-union or union, and the non-union workers will not be required to join a union. Therefore, union and non-union workers will be able to work side-by-side.

It hardly needs to be said that the Project is open to both union and non-union employers.

No Stoppage of Work or Work Slowdown:

Essential to the timely and cost-efficient completion of this Project, is a requirement that the Master Agreement and the Labour Management Sub-Agreement provide that there will be no stoppage of work or work slowdown on this Project. Commitment to this will require the signatures of Project employers and employees (either through their union or individually if they are non-union).

Wages and Hours of Work:

Wages and standard hours of work would be set for Floodway construction workers by one of two methods:

1. *The Construction Industry Wages Act* (CIWA) would immediately be revived and the membership of its Board or Boards updated. These Boards would then hold public hearings and recommend wage rates for the construction trades for 2004 - 2005 which should probably be updated annually thereafter; **OR**
2. Wages and hours of work would be provided through the Labour Management Sub-Agreement.

I think the revival and revision of *The Construction Industry Wages Act* is a useful way to proceed, with the advantage of longer term benefit beyond the life of the Floodway. However, this may not be possible if the time constraints of the Floodway Project make the CIWA revival too difficult, in which case the second option is viable.

Other Working Conditions:

The remainder of working conditions such as overtime, a quick dispute resolution mechanism, the handling of employers' lists of workers and unions' lists of members, would be determined by negotiation between the Manitoba Building Trades Council and the Floodway Authority, working in close association with relevant employers or employer associations.

All conditions of work relevant to this Project, except wages and hours, would in this manner be determined after negotiating sessions between this Building Trades Council and the Floodway Authority (again with consultation of relevant

employers or employer associations). In this context, the unions would be negotiating on behalf of all workers; union and non-union.

Dispute Resolution:

As indicated above, one of the working conditions which would be negotiated would be a quick dispute resolution mechanism. The details of this would be contained, once negotiated, in the Labour Management Sub-Agreement.

One way of proceeding with regard to this mechanism could be an independent third party office or individual (with support assistance) who would provide the services necessary as the decision-maker in disputes. Union workers would be represented in this process by their unions. The unions would be available to represent non-union workers in this process at the request of the non-union worker.

It is essential that there be a quick fix for disputes and that there be a method of both of union and non-union workers receiving assistance and representation.

Although most disputes would probably be between workers and employers, this dispute resolution mechanism should also be available for disputes between employers or between groups of workers (union or non-union).

The Union Organizing Issue:

It is recommended that the Floodway Project be an “organizing free zone”. Details would need to be negotiated as above with the Building Trades Council and the Floodway Authority, but the end result should be that unions will not attempt to organize or sign up non-union members who are working on the Project.

This does not deny an individual worker the fundamental right to join a union if that is her/his choice.

Compensation for Provision of Service:

Significant service will be provided in a variety of ways by the unions who are involved in this Project. Among these services are the following:

- The negotiation on behalf of workers of most of the content of the Labour Management Sub-Agreement (with the possible exception of some items, such as wages and hours of work if the CIWA is used).

- The representation of workers in the dispute resolution process, although there would be a choice of representation or not in the case of non-union members.
- Assistance in various aspects of the training scheme as determined in the Training Sub-Agreement.
- Assistance with and participation in whatever arrangements are to be found in the Equity Employment Sub-Agreement which will provide, among other things, for aboriginal participation.
- Assistance with support of the fundamental requirement (consistent with provincial law) that there will be no worker action which will slow down or stop the continuation of the Floodway Project. There will of course also be a provision preventing the employer from using any form of lock-out during the life of the Floodway Agreement. Details of this will also be negotiated for inclusion in the Labour Management Sub-Agreement.

For the services rendered above by The Building Trades Council or one or more of the unions who are part of that Council, there should clearly be an entitlement to a fee.

This fee will be paid by unionized workers to their union for services rendered, generally in the form of monthly dues.

Non-union workers will pay an equivalent service fee into a fund managed by an independent third party within the Floodway Authority structure.

The independent third party will remunerate or compensate the unions for the services rendered to non-union workers as determined by the independent third party.

Fundamental to labour management relations in a project agreement is the concept that there are no “free riders”. Every worker who benefits from the services which have been rendered on their behalf should participate in a fee payment for that service, whether they are a non-union worker or a union worker.

CONCLUSION:

It has been most rewarding to work with the parties toward a solution of the issues contained in this report. I am truly grateful for their helpfulness in providing ideas and information, and their never-failing courtesy toward me in this process.

Respectfully submitted.

W.N. Fox-Decent

Date