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ATTITUDE AT LATITUDE

F1



# AT THE CONFLUENCE OF ENVIRONMENTAL AND SOCIAL JUSTICE

Anxious and ignored, Point Douglas residents struggle to have even their most basic rights addressed amid fears over lead and other toxin levels / **F2-5**

BY JULIA-SIMONE RUTGERS

DAVID LIPNOWSKI / WINNIPEG FREE PRESS

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JESSICA LEE / WINNIPEG FREE PRESS

Catherine Flynn says the mix of heavy metal sounds, contaminated soil and dust is like a 'toxic soup' for Point Douglas residents. It was once a prosperous neighbourhood in Winnipeg's early days.

# MARGINALIZATION AMID CONTAMINATION

Point Douglas residents fearful and frustrated over lack of provincial response regarding toxin levels in the neighbourhood's soil, air and water

JULIA-SIMONE RUTGERS

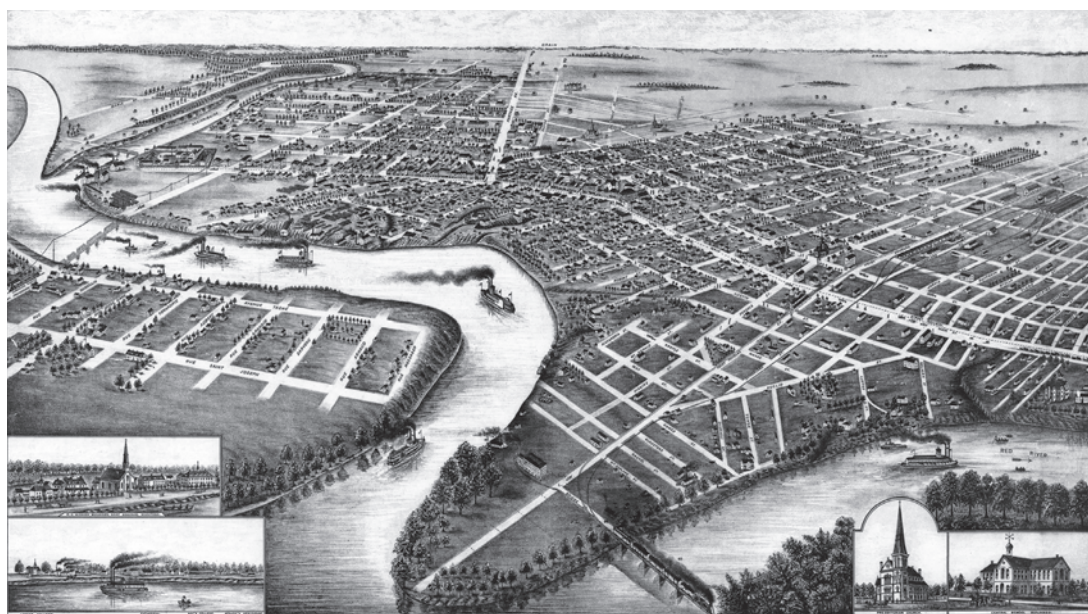
A CACOPHONY of heavy metal sounds greets Catherine Flynn as she stands in the garden outside her house. A train screeches in the background — the high whine of steel on steel; metal crashes in the scrapyards across the street. A gust of wind stirs up a whirl of gritty dust. It stings the eyes, catches in the throat.

"That would all be contaminated dust, by the way," Flynn calls out from the flower garden she's been tending in her front yard the last five years.

Flynn, a full-time high school art teacher who volunteers as acting chair of the Point Douglas Residents Committee, says the noise and dust on this day is mild. Usually, she explains, there's a lineup of cars idling in the scrapyards driveway, the constant beep of large trucks backing into the lot and nearby trains belching diesel smoke. It's hot this time of year, but she only opens her windows at night, after the scrapyards shut down, to avoid the stench and dust filling her 125-year-old home during the day.

"You just think: my God, this is like a toxic soup here," Flynn says.

She's spent 10 years living on this corner



in Point Douglas — one of Canada's poorest neighbourhoods — and while she loves the people, the proximity to Winnipeg's storied Red River, the parks and the history, it's exacted a physical and emotional toll.

Whether it's addressing persistent high lead concentrations, quelling incessant noise from railroad tracks that slice through the neighbourhood, regulating the throat-burning dust from scrap metal industries or even cleaning up piles of garbage, Flynn and other Point Douglas residents have repeatedly asked governments to step in and protect their air, land,

water and health, but to no avail.

Their mounting frustration is supported by a recent report from the Manitoba Eco-Network, which interviewed residents from Point Douglas and nearby St. Boniface and analyzed Manitoba's legislation. It found provincial environment laws and municipal bylaws meant to protect the neighbourhoods lack strong enforcement, the province's data-collection process is woefully out-of-date and difficult to access, and safeguards for the community's health are nearly nonexistent.

The community's needs are manifold and layered: there's a lack of quality housing

and income support; there's a pressing demand for mental health and social services; and it has the highest percentage of violent crime among Winnipeg neighbourhoods. However, it's impossible to separate environmental justice from social justice in Point Douglas.

As one resident puts it: "You can't have a healthy people without healthy land."

There's a way forward, one that's been reinforced by the United Nations — legal recognition of environmental human rights.

More than 150 countries around the world have affirmed this right, though not Canada, despite Ontario, Quebec and Prince Edward Island, along with all three territories, codifying the right to a healthy environment in their own legislation.

This right gives residents a voice when it comes to environmental decision-making, and the power to hold governments and industries accountable.

The legislation does not exist in Manitoba, but residents in Point Douglas and across the province say its time has come.

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Point Douglas is a complicated neighbourhood where residents in century-old homes try to co-exist alongside heavy industries.



JESSICA LEE / WINNIPEG FREE PRESS

Katherine Bitney: 'It's one of the most neglected (neighbourhoods) by every level of government'

IT'S like this throughout Point Douglas — abandoned industrial buildings dot the rail line and active auto-body shops, metal recyclers and warehouses operate next to century-old homes. Along the water's edge, parks and lush tree canopies invite a mix of recreational use and temporary encampments of tents, tarps and overturned shopping carts of the city's unhoused people. There are brownfields, boarded-up homes and piles of trash; there are community gardens, orchards and playgrounds.

Down the road from Flynn's house, in a tangle of trees on the riverbank, engineers are testing groundwater, monitoring the impact of historic benzene contamination from an old Centra Gas facility a block away.

"It's unique and a very beautiful area," says Katherine Bitney, who lives in the shadow of the historic (and now vacant) Vulcan Iron Works foundry, once one of the largest foundries in Western Canada. "It's also one of the poorest neighbourhoods in the city, and one of the most neglected by every level of government."

Point Douglas is, as Bitney says, "a beautifully diverse community." According to municipal data collected in 2016, just shy of half the population is Métis or First Nations, about 13 per cent are visible minorities and about the same percentage were born outside of Canada. About 45 per cent of residents are considered low-income, and the cluster of shelters and social service agencies bordering the downtown core mean many of the city's most vulnerable residents make transient homes nearby. It also has the highest percentage of children of any of Winnipeg's neighbourhoods.

"It's an incredibly complicated set of needs," Flynn says.

In the latter part of the 19th century, Point Douglas was an affluent suburb, home to business moguls attracted by the beauty of the river peninsula. When the Canadian Pacific Railway laid tracks through the heart of the community, more prosperity was expected to follow. Instead, foundries and manufacturers began to pop up to take advantage of the new trade route, and wealthy residents fled the sights and smells of the factories. New immigrants and low-income labourers moved in instead.

In a matter of years, the neighbourhood went from highly desirable to not at all desirable, a reputation that has plagued Point Douglas ever since.

Today, politicians tend to overlook the problems residents raise, and many Winnipeggers associate Point Douglas with crime, poverty and fear. A rise in illegal dumping — where people come from across the city to dispose of their trash in vacant lots — only bolsters the poor perception, Flynn says.

"It just feels like people think your community is garbage," Flynn says. "And we're not."

Yes, the community's needs are unique, layered and largely unmet, she says. Yes, there are ideological divides and tensions throughout. But the people, river, land and history make the neighbourhood vibrant.

"When this community is quiet — when there's no trains, when the scrapyard isn't running — you hear birds and crickets and breezes in the trees," Flynn says.

"You've got a small set of things destroying the feel of what could be an idyllic community."



DAVID LIPNOWSKI / WINNIPEG FREE PRESS

Point Douglas has the highest percentage of children in Winnipeg.

WHEN the Manitoba Eco-Network set out to analyze contamination facing some of Winnipeg's inner-city neighbourhoods, Point Douglas and nearby St. Boniface stood out, both for the contrast of residential living alongside industrial activity, and the mental toll it's taken on residents who feel their health is ignored by various levels of government.

"I live with a certain amount of stress here that's making sleep difficult and making focus difficult," says Christine Kirouac, a Point Douglas resident, professional artist and Métis woman.

The soil has long been contaminated with heavy metals like lead, so much so that residents are advised not to plant gardens; vacant gas stations and warehouses are also potential sources of contamination. The neighbourhood is prone to fires; tankers cars spread soot, noise and pollutants as they screech along the tracks; urban metal recyclers spew contaminant-filled dust.

"It should be illegal to put heavy industries next to someone's house," Flynn says. "Everybody's got a right to a clean, quiet, tree community where they don't have to be afraid of opening their windows or working in their gardens. I think it's that simple."

Alexandra Caporale, one of the report's authors, says residents described a kind of "cognitive dissonance" as they tried to balance their love for the community against the fears their health and safety are at risk simply because of where they live.

"There's sometimes a perception that the industry is more important than the people who are living there, and people are trying to assert the fact that they matter — their health and safety and their lives and personal stories matter," Caporale says.

Flynn and other Point Douglas residents have gathered evidence, scoured government records and reached out to decision-makers looking for help understanding and mitigating the effects of this contamination, but "they feel ignored by the government," Caporale says.

"They don't know what these substances are going to do to their health long-term. Most of the people I talked to felt that they did not have access to environmental justice."

MOST of the responsibility for toxic substances, contamination and public health falls on the provincial government. The environmental approvals branch sets out regulations for how businesses are allowed to operate, with the goal of minimizing environmental and health impacts, while the provincial Contaminated Sites Remediation Act and corresponding regulations govern how Manitoba identifies, registers and remediates potentially contaminated sites.

Once identified, Manitoba collects data about toxic substances in a public registry. If a site is known to be contaminated, it receives a "contaminated" designation; if it is only suspected, it receives an "impacted" designation.

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Western Scrap Metals, in operation for decades, has been a source of contention for years. Residents today continue to express concerns about the noise, dust and mess at the business.

Currently, there are four sites in the province listed as contaminated, with two in Winnipeg, including the former gas plant site on Sutherland Avenue that is causing benzene concerns along the riverbank. It's been designated as contaminated since the 1990s.

In general, Manitoba follows a "polluter pays" principle. Property owners are to notify the province if they become aware of potential contamination and are responsible for producing followup reports. (Manitoba Hydro now owns the old gas plant site and has managed a long-term remedial monitoring plan since 2012, according to an email from media relations officer Bruce Owen.) Anyone caught breaching the act could face fines of at least \$50,000 or a minimum jail term of six months; corporations that breach the act face a minimum fine of \$500,000.

According to annual reports, the environmental approvals branch has issued just three orders under the Contaminated Sites Remediation Act since 2016, though no fines were issued. In the same period, the province has issued 19 orders and more than \$31,000 in fines under the Environment Act, though no fines or orders have been issued since the fiscal year ending in 2019.

Most sites in the current provincial registry are listed as "not designated," which indicates there's a file, but there's scant additional information. There are more than 3,000 listings in the registry, according to the province, but many can't be viewed online. Instead, the province claimed in an email that the registry is primarily paper-based, though the department is working to add the files to the online database by fall 2024.

The province maintains the paper registry is updated regularly and available to the public, though there is little information on how to access it. One option is for the public to request an environmental file search, which costs \$126 with no option to waive the fee.

A lack of information about neighbourhood contaminants can contribute to a sense of stress, the eco-network report found. Point Douglas residents aren't sure how their health is impacted by the tanker cars rolling through, beyond noise pollution, or what heavy metals, aside from lead, are lingering in the soil and air thanks to long-gone foundries and manufacturers.

"We owe it to people to be able to tell them what is happening with their health, what is happening with their family's health, their future health, their descendants' health," Caporale says. "It's possible to get this information — so why not?"

ACCORDING to report co-author Heather Fast, citizens want a say in how environmental regulations are enforced and in what remediation looks like.

Take Western Scrap Metals, just a stone's throw from Flynn's home. The scrap recycler has been around for decades — its environmental licence is dated October 1975 — and Point Douglas residents have been protesting it since the beginning. In 1985, picketing residents protested the expropriation of homes and city recreational land for the company. Throughout the same decade, residents complained the scrapyards were using the city's streets as their own property, stacking scrap and parking machinery on adjacent Sutherland Avenue.



Terry Bigularski hangs out the washing at her home next to Western Scrap Metals in 1987.

More recently, residents have expressed concern about the noise, dust and mess surrounding the business. According to anonymous statements in the eco-network report, some worry its presence encourages some residents to collect metal from the neighbourhood, burn off plastic coating from wires — creating what's described as "noxious" fumes — and sell the items to the business.

Elvin Linder, who opened Western Scrap Metals with his father nearly 70 years ago and grew up in the nearby North End neighbourhood, is aware of complaints regarding the Sutherland Avenue yard, but says the company is doing everything it's required to do to keep operations environmentally safe.

Dust and vehicle traffic, he says, are a municipal responsibility since the company doesn't own the gravel side roads used to load metal in and out of the yard. Any scrap piles that stretch above the fence line are temporary and any noise from the cranes that pile scrap shouldn't be a cause for concern, he adds. Wire burning, a "sore point" for Linder, isn't something he believes the company should be held responsible for.

"We've been well-inspected over the years and we know that we have to keep our property neat and tidy for a scrapyards," Linder says. "Everybody is entitled to their opinion but I'm satisfied that we're doing what we can for the neighbourhood, for the environment and for ourselves."

The terms of the company's 1975 environmental licence set limits on the amount of particulate matter and smoke the facility can produce along with a vague provision it must maintain a "high standard of maintenance and housekeeping." A second licence, issued in 2015 to allow the company to process lead acid batteries, forbids causing or permitting any noise or odour nuisances.

Western Scrap is not required to monitor air or soil quality themselves, Linder says, though their operations are periodically inspected by provincial staff.

In an emailed statement, the province said it has not received any complaints about Western Scrap, nor has it issued any orders pertaining to licence violations. The facility was last inspected in 2021 and no issues arose, the statement said.



JAMES HAGGARTY / WINNIPEG FREE PRESS FILES

Point Douglas residents protest Western Scrap Metals and the expropriation of nearby homes in 1985.

But it's not clear where residents can direct their complaints. The environmental licence registry lists two contact persons for the Western Scrap file, but both are no longer working in the environmental approvals department. There are no inspection or monitoring reports on file, so it's difficult for residents to know what the province has done to hold the business accountable.

"Community members don't have unrealistic expectations," Fast says. "Sometimes even just knowing and getting regular updates that an investigation is happening, or that a file is being pursued would actually really satisfy them."

Even when information about contaminants is made available, it's not always clear how and when remediation will take place.

In 2007 and 2008, the province tested soil samples across Winnipeg and found three-quarters of the samples in North Point Douglas had lead concentrations far above acceptable levels. Reports attributed the elevated concentrations to vehicle emissions and scrapyards dust. Elevated lead in soil had been identified within a 60-metre radius of metal scrapyards on Sutherland Avenue, "likely the result of airborne dust created from these properties," one report read. The province never told residents about these test results. They came out a decade later, through freedom of information requests from the CBC.

The ensuing controversy prompted additional testing by the government. North Point Douglas still returned several samples with lead concentrations far above healthy levels — the highest of any neighbourhood tested.

"Proximity to rail lines or industrial areas may also result in the accumulation of lead within surface soils," the provincially commissioned report reads.

The data confirmed what residents had known, anecdotally, for years. But they aren't sure how the province plans to remediate their soil. They've been told, in government factsheets, not to plant vegetables in the ground — most gardeners in the neighbourhood use raised beds — and to wash their hands after touching the ground, but beyond that it's not clear to residents whether remediation has begun, or whether new lead problems continue to arise.

In the neighbourhood's well-loved Michaille Jean Park, for example, lead levels in soil as of 2021 were more than five times higher than federal guidelines. While the report suggested remediation strategies like soil removal, it's not clear what work the province has undertaken. The province says community lead levels are decreasing, but snow testing from an independent researcher at the University of Manitoba indicated heavy metals are continuing to leach into the soil through precipitation just across the river in St. Boniface.

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Lead toxicity presents major health concerns — particularly for children, who make up about a quarter of the neighbourhood's population and are more vulnerable to absorbing lead from soil. The health impacts for kids, according to Flynn, read like a "laundry list" of social concerns facing the neighbourhood: it ravages the central nervous system, causing developmental and behavioural disorders like reduced attention span and increased antisocial behaviour. It also causes anemia, hypertension and immunotoxicity, and has other physical impacts. The effects of lead exposure are thought to be irreversible.

Despite requests from residents and recommendations from the province's own reports, Manitoba has been reluctant to start testing for blood lead levels in Point Douglas, telling media they are reviewing the recommendations. For the last year, the province has asked doctors to report elevated blood lead levels to Manitoba Health on an "interim basis."

Flynn says Point Douglas has had "zero" success after asking the province to gather more data. The government didn't want to test precipitation (like the University of Manitoba snow tests in St. Boniface) to see if heavy metal contamination was ongoing and it never followed through on years-old promises to monitor the air quality, either. Eventually, the government stopped responding altogether, Flynn says. The province did not respond to specific questions from *The Free Press* about existing soil testing, air quality monitoring or remediation projects in the neighbourhood.

"It was just excuse after excuse," she says. "Obviously that's super frustrating, to be asking for information and not getting any, having your emails ignored."

IN Point Douglas, any discussion of the environment, pollution, contamination and health goes hand in hand with a discussion of marginalization and poverty.

It's this notion — that environmental justice is paramount to residents' health and well-being — that informs the push for environmental human rights.

When the UN General Assembly passed a resolution last summer affirming everyone has the right to a healthy environment, the rationale was clear: in the face of mounting crises caused by climate change, biodiversity loss and pollution, citizens — especially marginalized and vulnerable groups — should have the legal power to hold governments and industries accountable. The UN noted most countries have laws meant to mitigate the impacts of climate change, limit pollution and safeguard biodiversity, but citizens have not always felt empowered to challenge governments to enforce or even follow those regulations.

Already 80 per cent of UN member states have recognized this right in their own constitutions and legislation. In a press release, the UN said advocates hope this resolution, though not binding, would inspire other countries to follow suit.

Canada is among the minority still without environmental human rights legislation — for now. Bill S-5, currently awaiting consideration in the Senate, would introduce language to "protect the right of every individual in Canada to a healthy environment" subject to "reasonable limits."

Critics, including members of the Manitoba Eco-Network, worry the bill will not be enforceable and could instead weaken some existing environmental protections.

Another federal bill, C-226, currently in second reading, would prompt the government to develop a national strategy on environmental racism and advancing environmental justice. This bill could bring about more support for data collection on environmental hazards, socio-economic conditions and the impacts of environmental racism. It would require the federal minister of environment and climate change to create a legal framework to address how race, socio-economic status and living near environmental hazards shape health outcomes.

In Canada, however, provinces are most responsible for environmental decision-making.

Ontario instituted its Environmental Bill of Rights in 1993, allowing citizens the right to participate in decisions involving the province's air, water, land and wildlife. Under the bill, Ontarians can comment on specific government proposals, request new policies, acts or regulations (or a review of existing ones), get permission to appeal certain permits, licences and approvals and, crucially, charge the ministries to investigate environmental harms, sue for environmental damage and be protected as a whistleblower.

According to the Canadian Environmental Law Association, Ontario's bill "significantly improved" public participation. It's been weakened since — the office of the environmental commissioner was nixed in 2019, for example — but the opportunity to hold governments to account for the environment can't be understated.

Similar legislation exists in Quebec's Environment Quality Act, Yukon's Environment Act, which offers residents the right to take legal action against the government or another body causing impairment to the environment, the Northwest Territories' Environmental Rights Act (which acknowledges the "value in local, community, traditional and scientific knowledge in making environmental decisions") and Prince Edward Island's recently passed Environmental Bill of Rights.

Manitoba has no such legislation — though not for lack of trying.

Bill 20, the Environmental Rights Act, was introduced by the then-NDP government in 2015.

"This bill proposes to affirm that every Manitoban has a right to a healthy and ecologically balanced environment," then minister of conservation and water stewardship Thomas Neva-kshonoff told the legislature during the bill's first reading.

Although it died with the election of the Progressive Conservative party, the need remains,



Michelle Jean Park is a riverside refuge often bustling with children and families.

DAVID LIPNOWSKI / WINNIPEG FREE PRESS

Fast says.

Exactly what shape those environmental human rights take in Manitoba, Fast says, should come out of consultation with the larger community. But according to the UN, effective environmental human rights share certain characteristics: they must be substantive — meaning they're fundamental, absolute and directly linked to other civil, political, economic, social, cultural and collective rights — and they must be procedural, meaning they include specific tools to enforce those rights. Procedural tools include access to information, public participation and access to justice, according to the UN — all things residents in Point Douglas have been asking for.

Manitoba's environment minister Kevin Klein was not made available for an interview and the department did not respond to questions about environmental human rights legislation by publication time.

Governments are often worried introducing these rights would spark a flurry of expensive, time-consuming lawsuits, (the United Kingdom, for example, initially hesitated to support the UN resolution, citing "legal concerns") but there's no evidence to back up those fears.

"People are poor. We can't afford to go to court unless it's really important," Fast says, noting there hasn't been a "floodgate" of litigation in Quebec or Ontario following the introduction of environmental human rights.

Instead of going to court, she says, "citizens would love to feel like, if they've tried every political regulatory route out there, they have an option, because really the feeling is that they don't have any option if they perceive the government to not have done their job properly."

BACK in Point Douglas, many residents are tired of hearing governments tell them how complicated the neighbourhood's needs are; they're tired of trying to figure out which government body is responsible for what; they're tired of unanswered calls.

They've called 311 repeatedly asking the city to clean up piles of garbage around encampment sites and along the riverbanks, to discourage suspected illegal dumping, to fix up vacant properties at risk of arson, to report industries they believe are polluting the neighbourhood — still, not much has changed, and it's exasperating.

"Why do they not listen to us? I think it's because ... they don't care about aspects of the North End," resident Howard Warren says. "You lose your motivation to keep doing this. It's very frustrating."

Warren believes the community has been "com-



Howard Warren says the community, despite being ignored, has stepped up to address problems on its own.

JESSICA LEE / WINNIPEG FREE PRESS

pletely abandoned" when it comes to environmental issues, but the people who live there love the neighbourhood, so they pick up the slack. He's helped run spring cleanups for over a decade. After the snow melts, volunteers band together to pick up trash, clean up the riverbanks and take care of their shared community spaces.

In the last couple of years, he says, the city has assisted the clean-up efforts, sending contractors and skips to pack out the tonnes of trash volunteers collect. Some residents were recently able to meet with newly elected Mayor Scott Gillingham, who they say was receptive to their concerns. Following that meeting, some trash "hot spots" were addressed, residents say.

But those are just band-aid solutions. Many residents expressed a common refrain: this wouldn't happen in wealthier neighbourhoods.

They have ideas for small, concrete solutions: free pickup for bulky waste (the city typically collects large items for disposal at a fee), more frequent garbage collection, larger bins in neighbourhood parks, more inspections of vacant properties, more collaboration between levels of government on environmental protection and more educational resources for community members who may not be able to access the internet.

They have big-picture ideas, too.

They want major industrial businesses out, saying those facilities are "incompatible" with normal, safe family life. They want the rail line relocated before disaster strikes (a recent derailment that shut down a major city roadway was a stark reminder of the threat), they want to see the Red River cleared of trash and contaminants, and they want to know their soil is being remediated.

Some residents are even banding together with community groups in St. Boniface to propose a national urban park for the peninsula, which could eventually safeguard the area from industrial developments.

Bitney suggests environmental ethics should underpin all government decision-making. In Point Douglas, not only would cleaning up and protecting the neighbourhood be a matter of pride, she says, it would also be a matter of health — especially for the most vulnerable.

"When you have an area like this that's in some poverty and is racialized, environmental justice doesn't appear on the horizon," Bitney says. "I like to think of it as a kind of restorative justice, and restorative justice for the land itself."

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## DAILY AVERAGE PARTICULATE MATTER CONCENTRATION IN POINT DOUGLAS (2017-18)

in micrograms per metre cubed

— Average PM2.5 concentration (ug/m3)



Chart: Julia-Simone Rutgers  
Source: City of Winnipeg (created with Datawrapper)

THE City of Winnipeg measured particulate matter concentrations in Point Douglas from September 2017 to March 2018. Fine particulate matter (PM2.5) can cause cardiovascular and respiratory diseases — even at low concentrations. The World Health Organization recommends particulate matter concentrations should not exceed an average 15 micrograms per metre cubed in a 24-hour period, while the Canadian Council of Ministers of the Environment recommends 24-hour average exposures stay below 27 ug/m3. Point Douglas's air quality exceeded the WHO recommendations 13 times in the tested period.