

## Dagdick, Elise (CWS)

---

-----Original Message-----

From: darryl beger

Sent: January-19-15 7:00 PM

To: Dagdick, Elise (CWS)

Subject: Re: Preferred route

And how Is the price of our land gonna be decided ? It's gonna be hard to compare it to the others around because we are on the highest land on 501 and everything else downhill is wet or swampy and bushland down the road sold 5 acres for 55,000\$. I highly doubt there gonna pay prices like that we calculated on the route it should be going thought at least 12 acres of our bush land so I hope there paying for the land plus damage to the trees and what not . I am unable to attend the meetings

Darryl beger

**RESPONSE**  
**TO THE**  

---

**MANITOBA – MINNESOTA**  
**TRANSMISSION PROJECT**  
**DRAFT SCOPING DOCUMENT**

Submitted By:  
Gerhard P. Randel, LL.B.  
Mirwaldt, Gray, Poudrier

## INTRODUCTION

Manitoba Hydro's proposed Manitoba-Minnesota Transmission Project (the proposed project) will create significant damage to Manitoba's environment, the health of Manitobans, and to Manitoba's economy. Manitoba Hydro refuses to consider or adopt the alternative of burying overhead high voltage power transmission lines; an alternative that will mitigate or eliminate this serious damage potential on the people, natural environment, and economy of Manitoba. Manitoba Hydro repeatedly refers to outdated and inaccurate data when claiming that burying high voltage power transmission lines is not cost-effective. Not only is Manitoba Hydro's cost data vastly incorrect, but Manitoba Hydro has in the past refused to include the cost to the people, natural environment, and economy of Manitoba of overhead high voltage power transmission lines.

The Environmental Impact Statement (EIS) required for approval of the proposed project provides Manitobans with an important opportunity to assess the impact of the proposed project on the people, natural environment, and economy of Manitoba and to compare that cost if the high voltage power transmission lines of the proposed project were buried. For the first time in Manitoba's history, Manitobans will receive a complete and comprehensive assessment of the true costs of overhead high voltage transmission lines in comparison to buried high voltage power transmission lines over the estimated forty to sixty year life of the proposed project.

This assessment will allow the province of Manitoba to require Manitoba Hydro to bury the high voltage power transmission lines of the proposed project in accordance with provincial, national, and international standards, using methods that have been tested and implemented throughout the world. The latest technology in the field of burying high voltage power transmission lines makes this option extremely cost-effective over the life of the proposed project as well as safer and more reliable

for the people and natural environment of our province.

This Response is to various sections in the Draft Scoping Document submitted by Manitoba Hydro on 21 November 2014 that directly impact the people, natural environment and economy of Manitoba. It is highly recommended that the province of Manitoba require that Manitoba Hydro provide an EIS based on data that has been assembled independent of Manitoba Hydro, to provide the people of Manitoba with the most reliable and unbiased data available.

Thompson, Manitoba  
6 February 2015

---

### **3.3.4**

## **Operation and Maintenance**

In addition to the details related to operation and maintenance, the non-exhaustive list should include, among other things:

- An independent assessment of the cost of operation and maintenance of the proposed project over the life of the proposed project;
- An independent assessment of the cost of operation and maintenance of the proposed project over the life of the proposed project if the high voltage power transmission lines were buried.

### **8.1.5**

---

## **Vegetation and Wetlands**

Manitoba Hydro must include independent studies of the projected cost to the province of Manitoba of the destruction of vast swaths of vegetation and wetlands due to the proposed project as well as damage to vegetation and wetlands from the electromagnetic fields generated by the proposed project.

### **8.1.6**

## **Wildlife**

Manitoba Hydro must include an independent study of the projected death rates of wildlife including, among others, birds and waterfowl, from Manitoba Hydro's proposed project and the cost thereof to the province of Manitoba. The independent study must include an assessment of the deaths and change in migration patterns of various wildlife attributed to Manitoba Hydro's high

voltage power transmission lines, the cost thereof to the province of Manitoba, and the extent to which the proposed project will significantly reduce the natural balance of wildlife in Manitoba, endangering our province's natural wildlife diversity and harming Manitoba's reputation as a home to a vast array of wildlife. The independent study must compare the impact on wildlife if the high voltage transmission lines of the proposed project were buried instead of placed on towers as proposed, and compare the extent to which buried lines and overhead lines kill, harm, or otherwise alter the natural habits of wildlife and would restore the natural balance of wildlife populations in Manitoba.

### **8.2.3**

---

## **Agriculture**

Manitoba Hydro must include an independent study of the impact of the proposed project on farmers' productivity and income and compare that impact to the extent to which farmers' productivity and income would be affected if the proposed project were buried. The independent study must include the impact of the proposed project on farmers' incomes and on the tax revenue generated by the province of Manitoba as a result of the proposed project. Consequently, the assessment proposed by Manitoba Hydro should include an independent assessment to include the impact of the proposed project on Manitoba's agricultural economy and the costs to Manitoba's agricultural economy and to the province of Manitoba of the proposed project and compare that impact to the impact on Manitoba's agricultural economy if the proposed project was buried.

## **8.2.4**

### **Land and Resource Use**

The assessment of the impact of the proposed project on the activities listed in this section of the draft Scoping Document should be done independent of Manitoba Hydro and should include, among other things:

- The impact of the EMF generated by the proposed project on the activities listed;
- The impact of the proposed project on the activities listed if the high voltage power transmission lines were buried.

## **8.2.5**

---

### **Infrastructure and Services**

The assessment of the impact of the proposed project on infrastructure and services should be done independent of Manitoba Hydro and should consult the various agencies and organizations which will potentially be affected by the proposed project. The assessment should compare the effects of the proposed project of the proposed project on infrastructure and services if the high voltage power transmission lines erected by Manitoba Hydro as part of the proposed project were buried versus being installed on towers as proposed.

## **8.2.6**

### **Employment and Economy**

Manitoba Hydro must include an independent assessment of the long-term effects of the proposed project on employment and the economy in Manitoba. The assessment must include the effects on

agriculture, property development, and commercial development of the proposed project and must compare the effect of the project as proposed on employment and the economy in Manitoba if the high voltage power transmission lines were buried.

## **8.2.7**

### **Property and Residential Development**

Because the proposed project poses major health risks and right-of-way issues, the proposed project will significantly reduce property values and the potential for residential and commercial property development in Manitoba. This will subsequently reduce economic activity in Manitoba and will reduce the property and sales taxes collected by the province of Manitoba.

Buried high voltage power transmission lines require only a fifteen meters wide right-of-way in comparison to one hundred meters or more required by high voltage power transmission lines. Thus, there is a significantly increased potential for property development when high voltage power transmission lines are buried in contrast to when they are mounted on towers and slung overhead because buried lines provide an approximately additional eighty-five meters wide right-of-way for property development running the entire length of the proposed project. The assessment proposed by Manitoba Hydro should include an independent assessment to include the impact of the proposed project on property and residential development in Manitoba as well as the costs to the province of Manitoba due to the decreased property and residential development of the proposed project and compare that to an assessment of the impact of the proposed project on property and residential development in Manitoba where the high voltage power transmission lines of the proposed project are buried.



### **8.2.8.1**

#### **Aesthetics**

Nobody can deny that overhead high voltage power transmission lines are unsightly and ugly regardless of how Manitoba Hydro presents them. They run the length of our province like giant scars that tear out Manitoba's natural beauty for their right-of-way. They mar our magnificent prairie sunsets and destroy our rare boreal forests. They deny farmers land that can be used to produce crops and they deny us all the recreational space that is our birthright. The incalculable aesthetic cost to our province of overhead high voltage power transmission lines includes costs to our tourism businesses and to our province's property values. These costs will be greatly mitigated, if not eliminated entirely, by burying these hideous and dangerous monstrosities. Manitoba Hydro must include an independent evaluation of the impact of the proposed project on the aesthetics of Manitoba as well as the costs of that impact on Manitoba and compare that assessment to the impact of the proposed project on the aesthetics of Manitoba if the high voltage power transmission lines in the proposed project were buried.

### **8.2.8.2**

#### **Human Health**

Overhead high voltage power transmission lines are unsafe for the health of any living organism. They are known to be the cause of several debilitating and fatal illnesses including leukemia and other forms of cancer, alzheimer's disease, dementia, and other diseases. The threat to human, plant, and animal health from overhead high voltage power transmission lines is due mainly to the very large electromagnetic field that surrounds overhead high voltage power transmission lines. This

electromagnetic field, which is indicated by its characteristic, constant hum, is also the lost power which emanates into the atmosphere and is known as "line loss." Of particular note is that among the most convincing studies were those that were performed on electrical workers whose overwhelming exposure to the electromagnetic field generated by overhead high voltage power transmission lines made them reliable subjects. The health costs associated with overhead high voltage power transmission lines are long-term and immense. The costs involved in caring for victims afflicted with serious and often fatal health issues associated with overhead high voltage power transmission lines are substantial costs to the province. Yet, these important costs have never been calculated and attributed to Manitoba Hydro's overhead high voltage power transmission lines. In contrast to Manitoba Hydro's proposal to build overhead high voltage power transmission lines, there are virtually no human health risks or risks to plant and animal life from buried high voltage power transmission lines, and thus no costs associated with those health risks.

As a result of these major human health risks, Manitoba Hydro must include a comprehensive, independent assessment of the impact of the proposed project on human health in the province of Manitoba as well as the costs to human health and to the province of Manitoba as a result of the significant human health risks of the proposed project. Furthermore, Manitoba Hydro must include a comprehensive, independent assessment of the impact of the proposed project on human health in the province of Manitoba as well as the costs to human health and to the province of Manitoba if the high voltage power transmission lines of the proposed project were buried and compare the costs to the province and people of Manitoba between buried and overhead high voltage transmission line.

### 8.2.8.3

#### Public Safety

The safety of high voltage transmission lines is an important issue that involves great human and economic costs. Overhead high voltage power transmission lines are subject to major safety concerns that are largely minimized or eliminated completely when these same lines are buried.

Downed overhead high voltage lines and towers are major safety concerns. Aside from their immediate danger to people and property as the result of a severe storm, prolonged outages are particularly dangerous for frail and otherwise vulnerable people. After a major storm where over 300,000 households were without power for an extended period over Christmas, 2013, Toronto City

---

Councillor Joe Mihevc argued for burying Toronto's overhead high voltage power transmission lines over a 20 year period. Stating that “the cost of these kinds of storms needs to be a part of the calculation,” Councillor Mihevc proposed altering the cost/benefit calculation for burying overhead high voltage power transmission lines. He cited the city's dependence on Hydro infrastructure and emergency preparedness as reasons for burying overhead high voltage power transmission lines.<sup>1</sup>

In October 2012, several thousand Manitoba Hydro customers were without power for several days when a snowstorm hit southeastern Manitoba.<sup>2</sup> A further 8,000 Manitoba Hydro customers were without power on 1 April 2013 due to a short circuit on the overhead high voltage power transmission lines for the second time in two days caused by fresh snowfall and dirt buildup on the lines.<sup>3</sup> None of these outages would have occurred had these overhead high voltage power transmission lines been buried.

---

1 Joe Mihevc, “Lessons from Toronto's Ice Storm” *Toronto Star*, 30 December 2013.

2 CBC News, “Power Outage Repairs Continue” 6 October 2012.

3 CBC News, “Power Outage Hits 8,000 Hydro Customers . . . Again” 1 April 2013.

Overhead high voltage power transmission lines are unsafe for helicopters and air balloons. Recently, a helicopter inspecting overhead high voltage power transmission lines snagged a power line and crashed, killing three people.<sup>4</sup>

Because of the danger to public safety from the proposed project, Manitoba Hydro must include an independent assessment of the impact of the proposed project on public safety and the costs involved and compare that assessment to an independent assessment on public safety if the high voltage power transmission lines of the proposed project were buried.

## **9.1**

### **Overview of Approach**

---

The required Environmental Impact Statement (EIS) for the proposed project should be prepared independent of Manitoba Hydro as Manitoba Hydro has a significant interest in seeing that the EIS is approved. As a result, Manitoba Hydro has an interest in mitigating the adverse environmental effects of the proposed project either by minimizing or ignoring their projected impact on the Environment or by attributing the adverse effects generated by the proposed project onto other projects and physical activities. Furthermore, the EIS should include an independent assessment of the impact of the proposed project on the environment if the high voltage power transmission lines of the proposed project were buried according to provincial, national and international standards in regards to the climate and geography of Manitoba.

## **9.2**

### **Selection of Valued Components**

---

<sup>4</sup> Huff Post News “Helicopter Crash Kills 3 After Aircraft Snags Power Line In Colorado” 28 January 2014.

The list of Valued Components (VCs) should be non-exhaustive and should include, among other things:

- The adverse effects of the proposed project on human, plant, and wildlife health, including, but not limited to:
  - The adverse effects of the Electromagnetic Field (EMF) generated by the proposed project on humans, plant life, and wildlife;
  - The adverse effects of the proposed project on the waterfowl and bird populations from electrocution and other accidental death;
  - The adverse effects of the proposed project on the migration patterns of wildlife;
- The adverse effects of the proposed project on Manitoba's agricultural economy;
- The adverse effects of the proposed project on residential, commercial, civic, recreational, and agricultural development;
- The adverse effects of the proposed project on the atmosphere.

Furthermore, the EIS should include the environmental impact of the proposed project if the proposed high voltage power transmission lines were buried.

## **9.12**

### **Effects of the Environment on the Project**

The effects of the environment on the proposed project should be assessed independently of Manitoba Hydro and should include among other things:

#### **Harsh Weather Conditions**

The reliability of overhead high voltage power transmission lines involves another high cost which must be calculated. The best reliability for the delivery of power to Manitoba Hydro's ratepayers, and thus compliance with Manitoba Hydro's statutory obligation, can only occur with buried high voltage power transmission lines.

Overhead high voltage power transmission lines are subject to extremely harsh weather conditions during the relatively long Manitoba winter, as well as severe summer thunderstorms. These weather conditions result in periodic power outages due to downed Manitoba Hydro lines, leaving thousands of Manitobans without power for often days at a time.

### **Geomagnetic Storms**

In addition to their vulnerability to harsh weather conditions, overhead high voltage power transmission lines are also subject to outages from geomagnetic storms. These storms are caused by solar flares from the sun that release charged particles and electrons which induces powerful electrical currents in the ground.

As a result of these significant environmental effects on the proposed project, Manitoba Hydro should include an independent assessment of the impact of the proposed project on Manitoba's natural environment and detailing the costs of these environmental effects on the proposed project. Furthermore, the independent assessment should include the impact of the proposed project on Manitoba's natural environment as a result of harsh weather conditions and geomagnetic storms if the high voltage power transmission lines of the proposed project were buried.

### **Estimate of Repair Cost**

The EIS for the proposed project should include an independent assessment of the cost of the proposed project in the event of a major environmental event that should include, among other

things:

- Estimate of repairs to the proposed project due to a major environmental event;
- Estimate of the cost to individuals, Manitoba Hydro ratepayers, and organizations affected by the proposed project due to a major environmental event;
- Estimate of the cost to the province of Manitoba for support services to individuals and organizations due to a major environmental event;
- Estimate of the cost to Manitoba Hydro and to the province of Manitoba as a result of not being able to meet contractual obligations as a result of a major environmental event;
- Estimate of the cost of repairs of the proposed project to Manitoba Hydro ratepayers and to the province of Manitoba in the event of a major environmental event if the proposed high voltage power transmission lines were buried;
- Assessment of the impact of a major environmental event on the proposed project to Manitoba Hydro ratepayers, individuals, organizations, and to the province of Manitoba if the proposed high voltage power transmission lines were buried.

PAPE  
SALTER  
TEILLET  BARRISTERS AND SOLICITORS

Jean Teillet, IPC

February 25, 2015

VIA EMAIL

Colin Jesse Salter

Elise Dagdick  
Environmental Approvals Branch  
Manitoba Conservation and Water Stewardship  
123 Main Street, Suite 106  
Winnipeg, MB, R3C 1A5  
[elise.dagdick@gov.mb.ca](mailto:elise.dagdick@gov.mb.ca)

Alex Monem

Jason T. Madden

Nuri Frame

Dear Ms. Dagdick:

Paul Bachand

**RE: MANITOBA-MINNESOTA TRANSMISSION LINE**

Honourary Counsel:

We are the legal counsel for the Manitoba Métis Federation (“MMF”) with respect to the Manitoba-Minnesota Transmission Project (the “Project”). I write further to my letter dated February 11, 2015 and your subsequent response email dated February 18, 2015, wherein an extension for the MMF to provide its comments on the Project’s draft Scoping Document was granted until February 25, 2015.

Art Pape

(1942 – 2012)

Richard B. Salter

(Retired)

Please accept the attached chart as the MMF’s comments on the draft Scoping Document filed with regulator. Further, my client’s request for a meeting to discuss this Project as well as its concerns with respect to proponent engagement and Crown consultation in relation to this Project remains outstanding.

We trust these submissions will be of assistance. We look forward to hearing from you or others with respect to our meeting request. I can be reached at

Yours very truly,

Jason Madden

Enc. (1)

c.c. Client

TORONTO OFFICE

546 Euclid Avenue, Toronto, Ontario M6G 2T2 Canada

T 416.916.2989 · F 416.916.3726

VANCOUVER OFFICE

460-220 Cambie Street, Vancouver, British Columbia V6B 2M9 Canada

T 604.681.3002 · F 604.681.3050



Manitoba Métis Federation — Comments on Manitoba Hydro’s draft Scoping Document for the Manitoba-Minnesota Transmission Line

| ID# | Scoping Document Section | Specific Scoping Document Reference   | Information Requirement/Deficiency   | Applicable Guidance Document Reference   |
|-----|--------------------------|---|--|--|
| 1   | 1.0 Introduction         | <p>“In accordance with Manitoba Order In Council 472 / 2013 issued pursuant to Section 107 of <i>The Public Utilities Board Act</i>, C.C.S.M. c. P280, the Public Utilities Board conducted a Needs For and Alternatives To (NFAT) review of a <b>preferred development plan</b> proposed by Manitoba Hydro.” [emphasis added]</p> <p>“The PUB’s report was provided to the Province in June 2014.”</p> | <p>The MMF was not consulted or involved in the development of the preferred development plan which would have afforded the MMF early involvement in the development process for the MMTP Project. Since 2009, these MMF concerns have been provided in writing to the Manitoba Government. These concerns were reiterated by the MMF, as a part of its intervention in PUB’s review of preferred development plan. However, the PUB determined that these issues were out of scope because they had not been delegated responsibility to consider or assess these Crown consultation related issues by the Manitoba Government. There is currently no process to address these higher-level, strategic consultation issues with respect to the preferred development plan. The MMF concerns continue to go unacknowledged and unaddressed by the Manitoba Government.</p> | <p><b>National Energy Board Electricity Filing Manual</b></p> <p>“Consultation activities should be early enough to allow those consulted opportunity for <b>meaningful input into project planning</b> and for adequate notification of project activities.” [emphasis added]</p> |
| 2   | 1.0 Introduction         | <p>“Manitoba Hydro expects to file an Environmental Impact Statement (EIS) for the Project with the National Energy Board (NEB), as part of its application and with Manitoba Conservation and Water Stewardship (MCWS).”</p>   | <p>No Project Description has been filed, to date, with the NEB for the MMTP Project. This document signals Manitoba Hydro’s intention to complete a Project Application with the NEB and is a necessary step in engagement and completing consultation with the MMF. MMF requires consultation on the development of a Project Description for provision to the NEB, including review of the draft and final versions to ensure the Project’s potential impacts Métis rights, interests and claims are included and addressed.</p>  | <p><b>National Energy Board Electricity Filing Manual</b></p> <p>“Provide a description of the IPL project that includes location, all project components and activities, the project schedule and any related undertakings.”</p>  |

**Manitoba Métis Federation — Comments on Manitoba Hydro’s draft Scoping Document for the Manitoba-Minnesota Transmission Line**

|   |   |  |   |  |
|---|---|--|---|--|
| 3 | 1.0 Introduction                                      | “This scoping document will provide an outline of information to be included in the EIS.”  | MMF objects to this Scoping Document being used as a substitute for a NEB specific Project Description. The draft Scoping Document lacks the necessary detail required for consideration under the NEB including detailed engineering and interconnection requirements, schedule and other approvals, alternatives, and more specific details related to consultation, environmental and socioeconomic assessment.  | <p><b>National Energy Board Electricity Filing Manual</b></p> <p>“Applicants for election certificates should consider each chapter of this manual and file all the information that is of relevance to their particular project, in accordance with the nature and magnitude of the project.</p>  |
| 4 | 1.4 Scoping Document Purpose                          | “The purpose of this Scoping Document is to identify for MCWS, the NEB and the public the scope of information and analysis planned in preparation of the EIS for the Project. The purpose is also to provide an opportunity for public and regulator input into the proposed scope of the EIS.” | If this Scoping Document is meant to cover off the Federal and Provincial requirements for the development of an EIS, MMF requires the Scoping Document be prepared in accordance with the NEB Electricity Filing Manual in order to allow for its proper consideration.  |  |
| 5 | 2.1.1 National Energy Board Act, R.S.C., 1985, c. N-7 | “...Sections 58.17 and 58.2 of the Act allow for the application of provincial law relating to environmental assessment provided an Order in Council is issued by the government of the province where the IPL is located.”  | While the Order in Council designates the Minister of Conservation and Water Stewardship as the provincial regulatory agency for the Manitoba portion of the MMTP, it does not replace the NEB requirements for this project which must still be satisfied.<br><br>Please confirm that all requirements of the NEB Electricity Filing Manual will be completed as part of the application process for MMTP.<br><br>Please confirm what departments and/or agencies will be responsible for Crown consultation with MMF. | <p><b>Order in Council No. 00386 / 2013</b></p> <p>“The Minister of Conservation and Water Stewardship is designated as the provincial regulatory agency for Manitoba portion of the 500 kV alternating current transmission line originating at Dorsey converter station northeast of Winnipeg and terminating at the Blackberry station near Duluth, Minnesota.”</p> |
| 6 | 2.1.1 National Energy Board Act, R.S.C., 1985, c. N-7 | “The National Energy Board Electricity Regulations SOR/97-130 outlines information to be provided by applicants for permits for the construction and operation of IPLs, including an environmental   | The referred to electricity regulation is outdated and does not refer to CEAA 2012.   |  |

Manitoba Métis Federation — Comments on Manitoba Hydro's draft Scoping Document for the Manitoba-Minnesota Transmission Line

|    |  |   |  |  |  |
|----|--|---|--|--|--|
|    |  | assessment report.”   |  |  |  |
| 7  | 2.1.1 National Energy Board Act, R.S.C., 1985, c. N-7                      | “NEB Permit EP-196, issued on March 5, 2002 for the Glenboro international power line, requires Manitoba Hydro to obtain NEB approval for any changes to the Glenboro international power line.”  | This lists the incorrect permit which was outdated as of 2012.   |  |  |
| 8  | 2.1.2 Canadian Environmental Assessment Act, 2012, S.C. 2012, c. 19, s. 52 | “...is considered a Designated Project pursuant to the Regulation Designating Physical Activities SOR/2012-147 under the <i>Canadian Environmental Assessment Act, 2012</i> , S.C. 2012, c. 19, s.52 ( <i>CEAA, 2012</i> ).”  | How can the conditions under <i>CEAA, 2012</i> be satisfied without the completion of a separate EIS which complies with, at minimum, the NEB Electricity Filing Manual requirements.<br><br>Without a NEB specific Project Description, the MMF has little confidence in the current draft Scoping Document to satisfy these requirements.  |  |  |
| 9  | 2.1.2 Canadian Environmental Assessment Act, 2012, S.C. 2012, c. 19, s. 52 | “Pursuant to Section 15(b) of <i>CEAA, 2012</i> , the NEB is a Responsible Authority for designated projects regulated under the National Energy Board Act, R.S.C., 1985, c. N-7, and will be the authority responsible for the federal review under <i>CEAA, 2012</i> .” | MMF requires the development of a Project Description for initiation of the federal review process for the MMTP application.<br><br>Further, MMF requires ongoing consultation related to the Project Description for the MMTP as well. Currently, no meaningful engagement and/or Crown consultation with MMF with respect to the Project has occurred.                               | <b>National Energy Board Electricity Filing Manual</b><br><br>“Provide a description of the IPL project that includes location, all project components and activities, the project schedule and any related undertakings.” |  |
| 10 | 2.2.1 The Environment Act, C.S.M. c. E125                                  | “The Licensing Procedures Regulation 163/88 of this Act outlines information requirements for proposals under the Act.”   | As currently written, the draft Scoping Document does not fulfill the requirements under the Licensing Procedure Regulations as there is no identification of potential adverse effects to Métis rights, interests and claims included and the Regulations specify that the document must contain:<br><br>“...socio-economic implications resulting from the environmental impacts...” |  |  |

**Manitoba Métis Federation — Comments on Manitoba Hydro's draft Scoping Document for the Manitoba-Minnesota Transmission Line**

|    |  |  |  |  |
|----|--|--|--|--|
| 11 | <p>3.0 Scope of the Project</p> <p>3.1 General</p> | <p>"For the transmission line to be compatible and operate efficiently and reliably within the existing system, the following modifications will need to be made to the Manitoba network:</p> <ul style="list-style-type: none"> <li>• Dorsey Converter Station expansion, upgrades and relocation of an existing 230-kV intraprovincial line at the proposed 500 kV line exit;</li> <li>• Riel Converter Station upgrades within the existing fenced compound;</li> <li>• Modifications to Glenboro Station, including extending the current switch yard and installing additional equipment. Several towers on existing intraprovincial lines will be relocated to accommodate the modification." </li></ul> | <p>It is unclear from the draft Scoping Document whether the modifications listed will be part of the EIS or whether they will be considered separately.</p> <p>MMF requires consideration of the modifications as part of the EIS application to avoid project splitting and requires confirmation of the same from Manitoba Hydro.</p>   | <p><b>National Energy Board Electricity Filing Manual</b></p> <p>"The application shall identify and describe all project components, activities and related undertakings..."</p>  |
| 12 | <p>3.3 Project Description</p>                     | <p>"Maps of the preferred route and international border crossing point, and approximate sites of proposed ancillary facilities and related undertakings will be provided..."</p>  | <p>MMF has not been consulted, to date, on selection of the preferred route for this Project. Please identify how and when MMF will be engaged by proponent and/or consulted by the Crown on the Project's route selection.</p>  | <p><b>National Energy Board Electricity Filing Manual</b></p> <p>"Consultation activities should be early enough to allow those consulted opportunity for <b>meaningful input into project planning</b> and for adequate notification of project activities." [emphasis added]</p> |
| 13 | <p>4.0 Scope of the Assessment</p>                 | <p>"The scope of the assessment will meet the provincial requirement ... and the federal requirements of the National Energy Board. The EIS will be prepared in reference to the following legislation, regulations and guidelines ... The information requirements of Section 1(1) of the Licensing Procedures Regulation 163/88 of <i>The Environment Act</i>, C.C.S.M. c. E125 ..."</p>   | <p>As currently written, the draft Scoping Document does not fulfill the requirements under the Licensing Procedure Regulations as there is no identification of potential adverse effects to Métis rights, interests and claims included and the Regulations specify that the document must contain: "...socio-economic implications resulting from the environmental impacts..."</p> |  |

Manitoba Métis Federation — Comments on Manitoba Hydro's draft Scoping Document for the Manitoba-Minnesota Transmission Line

|    |                             |   |   |   |
|----|-----------------------------|---|---|---|
| 14 | 4.0 Scope of the Assessment | <p>"The scope of the assessment will address the following factors: ...</p> <ul style="list-style-type: none"> <li>• <b>Traditional and local knowledge;</b></li> <li>• Potential effects of the Project including, but not limited to:             <ul style="list-style-type: none"> <li>○ Potential effects on biophysical elements;</li> <li>○ Potential effects on socio-economic elements; Potential effects on land and resource use;</li> <li>○ Potential effects on heritage resources;</li> <li>○ <b>Potential effects of the Project on First Nation and Métis traditional land uses;</b></li> <li>○ Potential effects to human health and safety including potential effects from the release of pollutants, if any." [emphasis added]</li> </ul> </li> </ul> | <p>The scope of the assessment does not include an identification of potential impacts of the development on Aboriginal and treaty rights, specifically Métis rights.</p> <p>Traditional and local knowledge and traditional land uses includes a description of historic, current and potential future uses in the project area. It can also describe commercial and subsistence uses potentially affected by the Project. However, it is not, in itself, an effects assessment and will not identify any potential impacts on these uses. The traditional and local knowledge and traditional land use studies can be used as a baseline study for integration into the larger EIS report and assessment of potential effects.</p> <p>MMF requires this identification be completed and that this be included in the scope of the assessment.</p> | <p><b>Information Bulletin – Environment Act Proposal Report Guidelines</b></p> <p><u>Description of Environmental and Human Health Effects of the Proposed Development</u></p> <p>"Potential impacts of the development on Aboriginal and treaty rights, including but not necessarily limited to:</p> <ul style="list-style-type: none"> <li>○ Direct impacts on communities in the project area;</li> <li>○ Resource use, including hunting, fishing, trapping, gathering, etc.;</li> <li>○ Cultural or traditional activities in the project area.</li> </ul> |
| 15 | 4.0 Scope of the Assessment | <p>"The scope of the assessment will address the following factors: ...</p> <ul style="list-style-type: none"> <li>• <b>Identification and quantification (where possible) of residual environmental effects</b> remaining after mitigation including the significance of the residual effects ... " [emphasis added]</li> </ul>  | <p>The qualifier used in this section is wholly inappropriate. The guidance documents for this Project contain no such qualifier and there must be a fulsome identification and quantification of residual environmental effects, particularly the potential impacts to Métis rights, interests and claims.</p>   | <p><b>National Energy Board Electricity Filing Manual &amp; Proposal Guidelines</b></p> <p>"...the ESA should identify the residual effects that remain after the implementation of mitigation."</p> <p>"... Residual environmental effects remaining after the application of</p>  |

Manitoba Métis Federation — Comments on Manitoba Hydro's draft Scoping Document for the Manitoba-Minnesota Transmission Line

|    |   |   |   |   | mitigation measures, to the extent possible expressed in quantitative terms relative to baseline conditions." |
|----|---|---|---|---|---|
| 16 | 5.0<br>Environmental<br>Assessment<br>Public<br>Engagement<br>Process | "A project-specific Public Engagement Process (PEP) will be implemented ... during the route selection and environmental assessment process."   | The MMF has not been engaged, to date, in the Project's route selection process. Please identify how and when MMF will be engaged by proponent and/or consulted by Crown on this route selection.   | <b>National Energy Board Electricity Filing Manual</b><br><br>"Consultation activities should be early enough to allow those consulted opportunity for <b>meaningful input into project planning</b> and for adequate notification of project activities." [emphasis added] |   |
| 17 | 5.0<br>Environmental<br>Assessment<br>Public<br>Engagement<br>Process | "The PEP will seek input from First Nations, Métis, local municipalities, stakeholder groups, government departments, local landowners and the general public during the route selection and environmental assessment process." | The PEP is an inappropriate vehicle for Aboriginal consultation. The law is clear: Aboriginal rights that trigger the duty to consult and accommodate are collectively held and this duty is owed to rights-bearing Aboriginal groups-not individuals. Manitoba Hydro's attempt to engage Aboriginal communities through PEP is deeply flawed, inconsistent with Supreme Court of Canada jurisprudence, 'best practices from other jurisdictions and has been previously criticized by Manitoba Clean Environment Commission as being an ineffective means to engage Aboriginal groups. Moreover, the information collected through the PEP will not be able to inform or assist in the Crown's discharge of the duty because the information will lack integrity and reliability. The draft Scoping Document contains a separate section for First Nation and Métis engagement and the input from Métis should be collected through this separate process. |   |   |

**Manitoba Métis Federation — Comments on Manitoba Hydro's draft Scoping Document for the Manitoba-Minnesota Transmission Line**

|    |                                       |  |  |   |
|----|---------------------------------------|--|--|---|
| 18 | 6.0 First Nation and Métis Engagement | <p>"First Nation and Métis Engagement conducted by Manitoba Hydro with respect to this Project will aim to achieve the same goals as the overall Public Engagement Process for the Project."</p> | <p>The goals outlined for the PEP do not include an identification of potential impacts to Métis rights, interests and claims. Without this goal identified, MMF has little confidence that this will be completed as part of the First Nation and Métis Engagement process contemplated by Manitoba Hydro.</p> <p>The goals for the Aboriginal consultation process are not the same as those for the public process. The MMF has constitutionally protected rights that require a depth of consideration that is entirely distinct for the public interest. Notably, this approach to Aboriginal engagement has been previously criticized by Manitoba Clean Environment Commission as being an ineffective means to engage Aboriginal groups; yet, Manitoba Hydro has no adjusted its approach.</p> | <p><b>Information Bulletin – Environment Act Proposal Report Guidelines</b></p> <p><u>Description of Environmental and Human Health Effects of the Proposed Development</u></p> <p>"Potential impacts of the development on Aboriginal and treaty rights, including but not necessarily limited to:</p> <ul style="list-style-type: none"> <li>○ Direct impacts on communities in the project area;</li> <li>○ Resource use, including hunting, fishing, trapping, gathering, etc.;</li> <li>○ Cultural or traditional activities in the project area.</li> </ul> |
| 19 | 6.0 First Nation and Métis Engagement | <p>"This engagement process is separate from any Crown-Aboriginal consultation process to be initiated by the Government with First Nations, Métis and other Aboriginal communities..."</p>      | <p>The MMF objects to the separation of the engagement process from the Crown-Aboriginal consultation process; these must be linked. The Manitoba Government and Crown regulators must make use of information obtained through the proponent led engagement process in order to make a determination of potential impacts to Métis rights, interests and claims. Without this linkage, the Crown will make determinations without the necessary information and the proponent will complete the engagement process without collecting the necessary information for Crown actors to make informed decisions. Given the fact that it has been the Manitoba Government's past practice to rely on</p>   | <p><b>Interim Provincial Policy for Crown Consultations with First Nations, Métis Communities and Other Aboriginal Communities</b></p> <p>"The Government of Manitoba should use the information obtained during consultation and should make all reasonable efforts to address the concerns identified by the First Nations/Métis communities/other aboriginal communities."</p>   |

Manitoba Métis Federation — Comments on Manitoba Hydro's draft Scoping Document for the Manitoba-Minnesota Transmission Line

|    |                                       |  |  |  |
|----|---------------------------------------|--|--|--|
|    |                                       |  | information from an EIS filing to discharge its Crown duties, without creating a parallel and credible Crown consultation/information collection process (with adequate and/or reasonable funding to collect necessary information), the proponent must collect necessary information in order for the government's obligations to be met in a manner that upholds the honour of the Crown.  |  |
| 20 | 6.0 First Nation and Métis Engagement | "It should be noted that the Government of Manitoba, not Manitoba Hydro, is responsible for conducting the Crown Aboriginal consultation." | It should also be noted whether Manitoba Hydro has been delegated any procedural aspects of Crown consultation by the Government of Manitoba as per <i>Haida Nation v. British Columbia (Ministry of Forest)</i> [2004] 3 S.C.R. 511 which states "The Crown may delegate procedural aspects of consultation to industry proponents seeking a particular development..."<br><br>Please provide more detail on the delegated aspects of consultation to Manitoba Hydro and what information the Crown has requested of Manitoba Hydro in order to inform its decision-making process.   |  |
| 21 | 6.0 First Nation and Métis Engagement | "The level and methods of engagement will depend on the response from each First Nation and the MMF."                                      | Within the Project area, Métis rights, which are protected by section 35 of the Constitution Act, 1982, are recognized by the Crown through the MMF-Manitoba Harvesting Agreement. These rights include "hunting, trapping, fishing and gathering for food and domestic use, including for social and ceremonial purposes and for greater certainty, the ability to harvest of timber for domestic purposes."<br><br>This Metis right to harvest has also been recognized by the Manitoba Provincial Court in <i>R. v. Goodon</i> , 2008 MBPC 58. As affirmed by the Supreme Court of Canada in <i>R. v. Powley</i> , [2003] 2 SCR 207, this is a right that is "recognize[d] as part of the special |  |



Manitoba Métis Federation — Comments on Manitoba Hydro's draft Scoping Document for the Manitoba-Minnesota Transmission Line

|    |                                       |   |  |
|----|---------------------------------------|---|--|
|    |                                       | <p>aboriginal relationship to the land." The MMF also asserts commercial and trade related rights in this area.</p> <p>In addition, the Project area is subject to the MMF's outstanding claim against the federal Crown in relation to the failure to implement the land-based provisions of section 31 of the Manitoba Act, 1870 in a manner that upheld the honour of the Crown. This breach was recognized by the Supreme Court of Canada in <i>Manitoba Métis Federation et al. v. Canada</i>, [2013] 1 S.C.R. 623. This outstanding constitutional claim requires negotiation and just settlement with the Manitoba Métis Community.</p> <p>In a letter from the MMF's legal counsel dated February 11, 2015 to MCWS, the MMF also outlines the significant importance of remaining Crown lands available to the practical exercise of Métis rights as well as the potential reliance on these limited Crown lands for any potential negotiated settlement related to the MMF's claim outlined above.</p> <p>Taken together, the factors set out above demand deep Crown consultation with the MMF in relation to this Project.</p> |  |
| 22 | 6.1 Traditional Land and Resource Use | <p>"The EIS will include:</p> <ul style="list-style-type: none"> <li>• A description of engagement of the Métis and individual First Nations, as well as a record of and the rationale for, those who have been included in the engagement process.</li> <li>• Confirmation that First Nations and Métis who participated in collecting traditional use information have had the</li> </ul>   | <p><b>Information Bulletin – Environment Act Proposal Report Guidelines</b></p> <p>"Potential impacts of the development on Aboriginal and treaty rights, including but not necessarily limited to:</p> <ul style="list-style-type: none"> <li>○ Direct impacts on communities in the project</li> </ul> |

Manitoba Métis Federation — Comments on Manitoba Hydro’s draft Scoping Document for the Manitoba-Minnesota Transmission Line

|    |  |   |  |  |
|----|--|---|--|--|
| 23 | 6.1 Traditional Land and Resource Use        | <p>opportunity to review the information and proposed mitigation.</p> <ul style="list-style-type: none"> <li>A description of how traditional knowledge was employed throughout the assessment.”</li> </ul> |  | <p>area;</p> <ul style="list-style-type: none"> <li>Resource use, including hunting, fishing, trapping, gathering, etc.;</li> <li>Cultural or traditional activities in the project area.</li> </ul>   |
| 24 | 7.0 Route Selection                          |   | <p>This section refers to Traditional Land Use and Traditional Knowledge without providing a definition of either.</p> <p>CEAA’s Interim Principles for Considering Aboriginal traditional knowledge in environmental assessments conducted under the <i>Canadian Environmental Assessment Act</i> defines Aboriginal Traditional Knowledge as “...knowledge that is held by, and unique to, Aboriginal peoples.”</p> <p>Please define the use of these terms.</p> |  |
| 25 | 8.0 Environmental and Socio-Economic Setting | <p>“The description will reflect local and Traditional Knowledge available for the assessment area.”</p>  | <p>The MMF has not been engaged, to date, in the Project’s route selection process. Please identify how and when MMF will be consulted on this route selection.</p>  | <p><b>National Energy Board Electricity Filing Manual</b></p> <p>“Consultation activities should be early enough to allow those consulted opportunity for <b>meaningful input into project planning</b> and for adequate notification of project activities.” [emphasis added]</p> |
| 25 | 8.0 Environmental and Socio-Economic Setting |   | <p>This minimizes the use of collected Traditional Knowledge information. Instead of using this information as a baseline for the elements of the biophysical and socioeconomic environment, it is loosely reflected in these sections without specific</p>  |  |

Manitoba Métis Federation — Comments on Manitoba Hydro's draft Scoping Document for the Manitoba-Minnesota Transmission Line

|    |                               |   |  |  |   |
|----|-------------------------------|---|--|--|---|
| 26 | 8.1.1 Atmospheric Environment | reference.  | <p>The atmospheric environment will be described and may include:</p> <ul style="list-style-type: none"> <li>○ Prevailing climate and meteorological conditions, based on nearby climate monitoring stations.</li> <li>○ Extreme weather potential, including areas prone to flooding, wildfire, tornadoes, and ice storms.</li> <li>○ Greenhouse Gas (CO<sub>2</sub>, CH<sub>4</sub>) emissions relative to applicable targets.</li> <li>○ Ambient air quality and major existing emission sources."</li> </ul> | <p>The atmospheric conditions section does not contain a description of baseline conditions necessary for continued Métis use of the Project area for the exercise of Métis rights as well as impacts on Métis interests and claims.</p>   | <p><b>Information Bulletin – Environment Act Proposal Report Guidelines</b></p> <p><u>Description of Environmental and Human Health Effects of the Proposed Development</u></p> <p>"potential impacts of the development on Aboriginal and treaty rights, including but not necessarily limited to:</p> <ul style="list-style-type: none"> <li>○ Direct impacts on communities in the project area;</li> <li>○ Resource use, including hunting, fishing, trapping, gathering, etc.;</li> <li>○ Cultural or traditional activities in the project area.</li> </ul> |
| 27 | 8.1.3 Aquatic Environment     | <p>The aquatic environment section does not contain aquatic species of importance to the Métis or species critical in maintaining the exercise of Métis rights.</p> | <p>"The aquatic environment will be described which may include:</p> <ul style="list-style-type: none"> <li>○ Local and regional surface water bodies (lakes, rivers).</li> <li>○ Fish and aquatic species, known or suspected to be located in the assessment area.</li> <li>○ Fish habitat classification at major</li> </ul>  | <p><b>Information Bulletin – Environment Act Proposal Report Guidelines</b></p> <p>"Potential impacts of the development on Aboriginal and treaty rights, including but not necessarily limited to:</p> <ul style="list-style-type: none"> <li>○ Direct impacts on communities in the project</li> </ul> |   |

Manitoba Métis Federation — Comments on Manitoba Hydro’s draft Scoping Document for the Manitoba-Minnesota Transmission Line

|    |                               |  |   |   |
|----|-------------------------------|--|---|---|
|    |                               | <p>stream crossings.</p> <ul style="list-style-type: none"> <li>○ Aquatic species of conservation concern (SOCC) and their habitat if affected by the project.”</li> </ul>   |   | <p>area;</p> <ul style="list-style-type: none"> <li>○ Resource use, including hunting, fishing, trapping, gathering, etc.;</li> <li>○ Cultural or traditional activities in the project area.</li> </ul>  |
| 28 | 8.1.5 Vegetation and Wetlands | <p>“Vegetation and wetlands will be described which may include:</p> <ul style="list-style-type: none"> <li>○ Composition, distribution and abundance of vegetation species and communities (land cover classification and ecological classification)</li> <li>○ Wetland classification, community type, conservation status, abundance, and distribution.</li> <li>○ Species of Conservation Concern and their habitat, with a focus on S1 to S3 Provincial Rank, ESEA and SARA species or communities.”</li> </ul> | <p>The vegetation and wetlands section does not contain vegetation species of importance to the Métis or species critical in maintaining the exercise of Métis rights.</p> <p>Further, this section does not describe the conditions required in wetland complexes for the maintenance of Métis rights, interests and claims.</p> | <p><b>Information Bulletin – Environment Act Proposal Report Guidelines</b></p> <p><u>Description of Environmental and Human Health Effects of the Proposed Development</u></p> <p>“Potential impacts of the development on Aboriginal and treaty rights, including but not necessarily limited to:</p> <ul style="list-style-type: none"> <li>○ Direct impacts on communities in the project area;</li> <li>○ Resource use, including hunting, fishing, trapping, gathering, etc.;</li> <li>○ Cultural or traditional activities in the project area.</li> </ul> |
| 29 | 8.1.6 Wildlife                | <p>“Wildlife will be described which may include:</p> <ul style="list-style-type: none"> <li>○ Wildlife species of ecological, economic or human importance known or</li> </ul>  | <p>The wildlife section does not contain wildlife species of importance to the Métis or species critical in maintaining the exercise of Métis rights.</p>   | <p><b>Information Bulletin – Environment Act Proposal Report Guidelines</b></p> <p><u>Description of Environmental and</u></p>  |

Manitoba Métis Federation — Comments on Manitoba Hydro's draft Scoping Document for the Manitoba-Minnesota Transmission Line

|    |  |  |   |  |
|----|--|--|---|--|
|    |  | <p>suspected to be located in the assessment area and their habitat.</p> <ul style="list-style-type: none"> <li>○ Important or sensitive habitat types or areas.</li> <li>○ Areas that support biological diversity, such as parks, bird sanctuaries, wildlife management areas, and ecological reserves.</li> <li>○ Existing level and patterns of habitat alteration (e.g. fragmentation).</li> <li>○ SOCC and their habitat, with a focus on S1 to S3 Provincial Rank, ESEA and SARA species."</li> </ul> |   | <p><u>Human Health Effects of the Proposed Development</u></p> <p>"Potential impacts of the development on Aboriginal and treaty rights, including but not necessarily limited to:</p> <ul style="list-style-type: none"> <li>○ Direct impacts on communities in the project area;</li> <li>○ Resource use, including hunting, fishing, trapping, gathering, etc.;</li> <li>○ Cultural or traditional activities in the project area.</li> </ul> |
| 30 | 8.2 Elements of the Socio-Economic Environment |  | <p>The MMF requires information related to Métis specific elements (valued components) or placeholders for Métis specific elements (valued components) be included in the draft Scoping Document.</p>   |  |
| 31 | 9.2 Selection of Valued Components             | <p>"VCs will be selected in consideration of components that: ...</p> <ul style="list-style-type: none"> <li>○ Are a part of the heritage of Aboriginal peoples or a part of their current use of lands for traditional purposes ... "</li> </ul>  | <p>Value components must be selected based on Métis rights in addition to being part of Aboriginal peoples heritage and part of their current use of lands for traditional purposes.</p> <p>Without mention of Métis rights, the draft Scoping Document is deficient.</p> | <p><b>Information Bulletin – Environment Act Proposal Report Guidelines</b></p> <p><u>Description of Environmental and Human Health Effects of the Proposed Development</u></p> <p>"Potential impacts of the development on Aboriginal and treaty rights, including but not necessarily limited to: Direct impacts on communities in the project area;</p>   |

Manitoba Métis Federation — Comments on Manitoba Hydro's draft Scoping Document for the Manitoba-Minnesota Transmission Line

|    |  |  | Resource use, including hunting, fishing, trapping, gathering, etc.; Cultural or traditional activities in the project area.   |
|----|--|--|--|
| 32 | 9.2 Selection of Valued Components                 | <p>"VCs will be selected in consideration of components that: ...</p> <ul style="list-style-type: none"> <li>Have been identified as important issues or concerns by regulators, stakeholders and public in other effects assessments in the region."</li> </ul> | <p>Suggest rewording to:</p> <ul style="list-style-type: none"> <li>Have been identified as important issues or concerns by regulators, stakeholders, <b>First Nations and Métis, including, the MMF,</b> and public in other effects assessments in the region.</li> </ul>  |
| 33 | 9.2 Selection of Valued Components                 |  | <p>The draft Scoping Document should outline the potential Valued Components for inclusion in the assessment. This would allow MMF sufficient time to comment on the adequacy of the Valued Components and ensure that Métis rights, interests and claims are considered in a fulsome manner.</p>                  |
| 34 | 9.9 Assessment of Cumulative Environmental Effects |  | <p>This section contains no detail as to the other Projects that will be considered when assessing cumulative effects. The MMF requires this detail to ensure the St. Vital Transmission Complex is considered. This is especially important as portions of each Projects' route site selection areas overlap.</p> |
| 35 | 11.0 Follow-up and Monitoring                      | <p>"Details of recommended follow-up and monitoring approach, including Contractor emergency response plan requirements, will be included in a project-specific draft EnvPP."</p>  | <p>As the EnvPP does not have to be approved until Project approval is in place, it is an inappropriate vehicle to outline a follow-up and monitoring approach for MMF rights and interests. This must be completed <b>prior</b> to Project approval.</p>  |

Jean Teillet, IPC

February 25, 2015

VIA EMAIL

Colin Jesse Salter

Elise Dagdick  
Environmental Approvals Branch  
Manitoba Conservation and Water Stewardship  
123 Main Street, Suite 106  
Winnipeg, MB, R3C 1A5  
[elise.dagdick@gov.mb.ca](mailto:elise.dagdick@gov.mb.ca)

Alex Mcnem

Jason T. Madden

Nuri Frame

Dear Ms. Dagdick:

Paul Bachand

**RE: MANITOBA-MINNESOTA TRANSMISSION LINE**

Honourary Counsel:

We are the legal counsel for the Manitoba Métis Federation (“MMF”) with respect to the Manitoba-Minnesota Transmission Project (the “Project”). This letter supplements our other letter of today’s date, which attached a chart of MMF comments with respect to the Project’s draft Scoping Document.

Art Pape

(1942 – 2012)

Richard B. Salter

(Retired)

As noted in our previous correspondence dated February 11, 2015, Métis rights, which are protected by section 35 of the *Constitution Act, 1982*, are recognized by the Crown in the Project’s study area by the MMF-Manitoba Harvesting Agreement. These rights include “hunting, trapping, fishing and gathering for food and domestic use, including for social and ceremonial purposes.” This Metis right to harvest has also been recognized by the Manitoba Provincial Court in *R. v. Goodon*, 2008 MBPC 58. As affirmed by the Supreme Court of Canada in *R. v. Powley*, [2003] 2 SCR 207, this is a right that is “recognize[d] as part of the special aboriginal relationship to the land.” These rights can also be exercised on private lands with permission and where their exercise is not incompatible with the use the land is being put to. The MMF also asserts commercial and trade related rights in this area.

The Project study area is also subject to the MMF’s outstanding claim against the federal Crown in relation to the failure to implement the land-based provisions of section 31 of the *Manitoba Act, 1870* in a manner that upheld the honour of the Crown. Whereby “[t]he unfinished business of reconciliation of the Métis people with Canadian sovereignty is a matter of national and constitutional import.”

/...2

Based on the factors set out above, it is the MMF's position that deep consultation is required in relation to this Project. As noted in my February 11<sup>th</sup> letter and the MMF's comments on the draft Scoping Document, meaningful proponent engagement and Crown consultation with the MMF with respect to the Project has been non-existent to date.

In addition, the MMF has recently become aware that the Project's current proposed route intersects at least four (4) parcels of Crown land traditionally used by MMF citizens for harvesting. As noted in my February 11<sup>th</sup> letter and documented in the map that was attached to that letter, the limited Crown lands left in the Project's study area are essential to the practical exercise of the Métis right to harvest. As such, the MMF strongly opposes the routing of the line through these parcels of Crown land. In particular, MMF citizens and harvesters from the La Broquerie and Ste. Anne's area have identified that the current proposed route intersects these parcels and, as MMF has not been included in the consultation process for the preferred route to date, this information has not been considered by Manitoba Hydro or Manitoba Conservation and Water Stewardship ("MCWS").

As noted above, this information only came to MMF's leadership attention recently, and reinforces the importance of conducting a MMF Traditional Land Use and Knowledge Study for the Project's study area as soon possible in order for Manitoba Hydro to fully understand the exercise of Métis rights in relation to its Project. Additionally, the MMF has significant issues with the draft Scoping Document and requires these issues be addressed to ensure an identification of potential adverse effects to Métis rights, interests and claims is completed.

Firstly, unclear direction has been provided by MCWS to Manitoba Hydro with regards to consultation with MMF. Currently there are no consultation guidelines for proponents to follow. The *Interim Provincial Policy for Crown Consultation with First Nations, Métis Communities and Other Aboriginal Communities* (May 2009) does not contain any procedural direction for the proponent and does not include specific detail on the consultation process. Further, *The Environment Act (Manitoba)* was enacted in 1987 and contains no direction with regards to Aboriginal peoples' rights or Aboriginal consultation. This lack of consultation requirements means the MMF cannot hold the proponent to any standard as the requirements are not laid out. Regardless of the contents of *The Environment Act*, the duty to consult MMF lies upstream of any enacted legislation.

The MMF notes that MCWS does have *Licensing Procedure Regulations* (1988) which identifies that Class 3 developments should contain "...a description of the potential impacts of the development on the environment, including, but not necessarily limited to the following: ... socio-economic implications resulting from the environmental impacts." The MMF assumes the *Licensing Procedure Regulations* are intended to direct proponents as to the minimum content of an EA Proposal Report, including consultation requirements with the MMF. Further, MCWS has an *Information Bulletin – Environmental Act Proposal Report Guideline* (February 2014) which lays out a description of potential environmental and human health effects. Specifically, "[p]otential impacts of the development on Aboriginal and treaty rights, including, but not necessarily limited to: direct impacts on communities in the project area; resource use, including hunting, fishing, trapping, gathering, etc.; cultural or traditional activities in the project area." However, this document does not specifically direct the proponent to complete an assessment on the same.



As the MMF has highlighted in its comment chart, the draft Scoping Document in its current form does not conform to these minimum requirements. Further, there is an overall lack of clarity related to the procedural aspects of consultation, MCWS's role in consultation and Manitoba Hydro's role as a proponent. The MMF seeks clarification on these issues.

This lack of direction from MCWS has meant that the MMF is left to rely on the National Energy Board ("NEB") to provide the only direction with regards to consultation and collection of Aboriginal traditional use information. It is our understanding that MCWS and the NEB will work together to review Manitoba Hydro's EIS. The MMF's comments, as set out in chart format, assume that the EIS will be prepared with the NEB Electricity Filing Manual in mind and it is further assumed that Manitoba Hydro will not be completing two EISs. Therefore, the MMF is of the opinion that the draft Scoping Document should be redrafted to meet the minimum requirements of the NEB Electricity Filing Manual.

More troubling is the content of the draft Scoping Document itself. The document does not include sufficient wording to ensure identification of project effects on Métis rights, interests and claims. An environmental assessment process is the primary (and often only) vehicle for gathering information about matters of importance to Aboriginal peoples, their rights, and the prediction of changes resulting from a proposed project; it is critical to ensure the most appropriate data is collected and used for study. Therefore, ensuring that the Scoping Document allows for the identification of predicted changes to Aboriginal rights is critical.

This is problematic as the Scope of the Assessment section does not state that it will address Aboriginal, or more specifically, Métis rights; instead, it focuses on Traditional and Local Knowledge. While the MMF agrees that the assessment will include a description of historic, current and potential future uses in the Project area (subject to capacity negotiations with Manitoba Hydro on the related study), the collection of this information is not, in itself, an effects assessment and will not identify any potential effects on these uses or on Métis rights. Instead, the Traditional and Local Knowledge information can be used as a baseline study by Manitoba Hydro for integration into the larger assessment for identification of potential effects.

Therefore, the Scope of the Assessment must be updated to explicitly include adverse impacts on Aboriginal rights, interest and claims as a potential Project effect. Further, in order to ensure the draft Scoping Document includes sufficient wording to ensure the protection and identification of project effects on Métis rights, interests and claims, the MMF is of the opinion that Manitoba Hydro must include Métis Valued Components as a part of its EIS.

The MMF has crafted a preliminary listing of Valued Components ("VCs") in order to illustrate the type of components that MMF may expect to be included in the assessment. This are attached to this letter as Appendix A. **It must be stressed that this list should not be considered final as the refinement of Métis-specific VCs must be completed through additional engagement and workshops conducted with MMF citizens, harvesters, leadership or other identified Métis representatives in the region.**

In addition to the broader concerns with the draft Scoping Document, the MMF has detailed issues which require clarification. Specifically, the goals of the *First Nation and Métis Engagement Process* rely on the goals of the Public Engagement Process ("PEP"); the First Nation and Métis process requires more than is outlined for the Public Engagement Process.

As current written, these PEP goals do not include identification of potential adverse effects to Aboriginal rights and are therefore deficient in discharging the duty to consult owing to the Manitoba Métis Community. It is also deficient in satisfying the *Information Bulletin – Environment Act Proposal Report Guidelines*. Further, the description of what the EIS will include under Traditional Land and Resource Use is also missing identification of Project effects on Métis rights, interests and claims. If this is not included in this section of the Scoping Document it will be excluded from the completed EIS.

The environmental and socioeconomic setting must include an integrated Métis baseline, rather than a reflection of local and traditional knowledge for the assessment area. Specifically, each environmental and socio-economic component must consider what is necessary for continued Métis use. For example, wildlife must contain a consideration of Métis specific species which are harvested and of import to the Métis. Additionally, the elements of the biophysical environment must be updated to include Métis preferred conditions for use. Also, the identification of assessment boundaries must include the extent which an Aboriginal right is practiced, whether it be traditional territory, extent of Métis rights in Manitoba or the limited areas left for the practical exercise of the Métis right to harvesting in the Project study area.

Finally, the cumulative effects volume lacks specificity necessary for MMF to evaluate the section. Currently, this section does not include any specific details, however, when Hydro furnishes this level of detail, the MMF requires confirmation from Manitoba Hydro that the St. Vital Transmission Complex will be included in any consideration of cumulative effects; particularly, given the proximity of the MMTP Project to the St. Vital Transmission Complex, the Project's overlapping Route Selection Areas and the potential to compound negative effects to existing Métis rights and interests.

As noted in my other letter of today's date, the MMF requests a meeting be held with Manitoba Hydro and the Ministry in relation to this Project as soon as is practicable to discuss the above referenced issues. We look forward to your timely response to these additional comments and meeting request. Please feel free to contact me at

Yours very truly,

Jason Madden

c.c. Client

## APPENDIX A

**PRELIMINARY LIST OF MÉTIS VALUE COMPONENTS  
FOR MMTP ENVIRONMENTAL ASSESSMENT**

| Valued Component       | Indicator(s)   | Rationale Selection   | for Potential Effect(s)  | Data Source(s)  |
|------------------------|--|---|--|---|
| Community Cohesion     | Métis attitude within the identified Study Area  | Collect details on Métis current attitude within the identified study area related to the Project and related to the current exercise of Métis rights | Disruption or Qualitative change in Métis attitude   | Manitoba Métis Federation   |
|                        | Historical connection to identified Study Area   |   | Disruption or loss of areas or routes critical to Métis mobility   | Field Study<br>Traditional Land Use Study data and associated Mapping |
|                        | Types of teaching/transmission programs, services and practices within the identified Study Area | Identification and protection of areas critical to Métis mobility within the Study Area   | Land use conflicts with familial or community teaching/transmission practices  | Socio-economic Study data   |
|                        | Intergenerational connection to areas within the identified Study Area                           | Minimize potential adverse effects to Métis teaching/transmission programs, services and practices  | Increased demand on existing MMF provincial education programs and services  | Video and Map Biographies   |
|                        |  | Reduce disconnection from key historic areas within the Study Area  | Qualitative disconnect from areas or sites of Metis tradition<br><br>Damage or loss of key areas to Métis exercise of rights | Genealogy   |
| Economic Participation | Economic standing within the community and in relation to non-Aboriginal communities             | Minimize potential effects on Métis economic standing within the community  | Change in employment or personal/household income directly related to the project  | Manitoba Métis Federation<br>Field Study                              |
|                        |  | Reduce project  | Loss of economic   | Traditional   |

|            |  |  |   |   |
|------------|--|--|---|---|
|            | <p>Component of traditional economy</p> <p>Employment, level of education, personal income, household income, and equipment owned</p>  | <p>effects to various aspects of Métis economic participation</p>  | <p>standing in Métis community</p>  | <p>Land Use Study data and associated Mapping</p> <p>Socio-economic Study data</p>                                    |
| Harvesting | <p>Type of harvesting activities exercised within the identified Study Area</p> <p>Identification of key cultural species harvested by MMF</p> <p>Identification of conditions required for continued harvest</p> <p>Identification of Lands Available to Métis for the exercise of their rights</p> | <p>Identification and protection of areas used for Metis harvesting</p> <p>Identification and protection of lands available for the exercise of Métis rights</p> | <p>Reduced access to preferred locations of harvest</p> <p>Loss or alteration of key cultural species harvested by MMF</p> <p>Changes to known harvesting conditions required for continued harvest</p> <p>Removal of unoccupied Crown land</p> | <p>Manitoba Métis Federation</p> <p>Field Study</p> <p>Traditional Land Use Data</p> <p>Socio-economic Study data</p> |
| Governance | <p>Ability to effectively govern the MMF</p> <p>Métis governance related to exercise of Métis rights</p>   | <p>Collect details on Métis governance related to the Project and related to the current exercise of Métis rights.</p>   | <p>Disruption or Qualitative change in Métis governance.</p>  | <p>Manitoba Métis Federation</p> <p>Traditional Land Use Data</p> <p>Socio-economic Study data</p>                    |