

Supplemental Report where Manitoba Hydro Articulates How
the MMF Report Information has Influenced MMTP

Manitoba Hydro has been engaging with the MMF on the Manitoba-Minnesota Transmission Project (MMTP) and through that engagement, provided funding for the filed report. In agreement with the MMF, Manitoba Hydro committed to filing the 'Metis Land Use and Occupancy Study - Assessment of Potential Effects Prior to Mitigation' (the MMF Report) and to filing a supplemental report where Manitoba Hydro articulates how MMF Report information has influenced MMTP. After review, it is the view of the assessment team that the information contained in the MMF report does not change the conclusions reached in the MMTP Environmental Impact Statement: that the project will not result in significant effects to the biophysical or socioeconomic environment nor would the report change routing of the transmission line.

The MMF report contained information and perspectives that Manitoba Hydro has considered and is currently discussing with the MMF. Manitoba Hydro is committed to further engagement with the MMF to incorporate the information found in the MMF report into Manitoba Hydro's Environmental Protection Plans and to engage in further discussions to help mitigate concerns the MMF has brought forward. Further information regarding how the MMF report has and will influence the MMTP is summarized below.

While there are many similarities in how both the MMF and Manitoba Hydro approached the impacts of the project, there are some differences.

The MMF, in this report, viewed the VCs as needing to be specific to address concerns related to Metis rights and interests. To clarify, with respect to rights, it is understood by Manitoba Hydro that neither the public hearing nor the environmental assessment are intended to assess whether identified impacts may constitute an effect on the exercise of Aboriginal or treaty rights. A distinct and separate Crown-Aboriginal consultation process is underway to determine that impact. Following this understanding, it is Manitoba Hydro's position that the valued components included in the EIS adequately characterize effects of the project on people and the environment. Please refer to the approved MMTP Scoping document and the CEC Hearing Terms of Reference that both verify this understanding.

Authors of the MMF report provide a discussion on the area covered by private lands, occupied crown lands and unoccupied crown lands in Section 4.0 of the report. Restrictions on exercising Metis, or other, harvesting rights on Private lands are well understood. However, by using the terminology of occupied and unoccupied Crown Lands, the MMF has incorporated a concept taken from the Treaties and the Natural Resources Transfer Act, which are not usually referenced with respect to the Metis in the exercise of their Aboriginal Rights. By itself that would not be a major issue, but in adopting this terminology the MMF has modified the normal meaning of occupied and unoccupied Crown land, which has been established through court cases. Of particular concern in the present context is the MMF's decision to suggest that the granting of an easement to permit the development of a transmission line,

moves the land from unoccupied to occupied. It suggests that the land is no longer available for the exercise and enjoyment of activities which are important to the Metis and their culture. The easement does not purport to provide any exclusive right of occupancy to, or use of, the right of way to Manitoba Hydro. Under the existing case law, the granting of an easement of the nature relevant here, would not move unoccupied Crown land into the category of occupied Crown land. The use of these terms in the MMF report conflates two concepts and at a minimum creates uncertainty for the reader as to where Metis rights may be exercised in Manitoba.

The MMF report identified that there are particular concerns regarding the potential for legal restrictions to 'Land Available for Metis Use' and to undertake 'Harvesting' on or near the Right of Way. Manitoba Hydro is unclear on the basis for the described legal restrictions imposed as a result of the project. Also, interpretations of harvesting restrictions in ecological reserves, provincial parks, provincial forests, public roads, wildlife refuges and other protected areas in the study area are different than Manitoba Hydro's understanding of the restrictions. In considering this concern, Manitoba Hydro has looked into the issue of legal restrictions on harvesting, including hunting on a ROW. Manitoba Hydro understands that in general the MMF may carry on the broad array of activities important to the Metis on and in the vicinity of the ROW. There are legal requirements of a general nature related to safety, such as discharging a firearm in the vicinity of people, which continue in force on the ROW, but there is no new legal restriction imposed with respect to these activities on the ROW. Manitoba Hydro recognizes that having the Project would increase some activities along the ROW during construction or maintenance work and in turn such activities could trigger a safety related requirement and temporarily interrupt a Metis activity. However, such safety related requirements do not arise from the granting of an easement for the ROW and do not create a new legal restriction. In addition, such activities would be significantly limited geographically (particularly maintenance work) and would be for very limited times. In addition, Manitoba Hydro could work with the MMF to schedule maintenance work, which may only be required once every 4 or 5 years, to times when there would be less use.

The MMF Report characterizes changes to harvesting activities and experience based on the understanding that legal restrictions will change broadly across Crown lands on the right of way for the duration of the project. The report indicates that the residual effects to the amount of land available for Metis Use is characterized as "high" for the PDA, and "moderate" for the LAA and RAA as a result of this legal understanding. Manitoba Hydro struggles with this as the underpinnings of this conclusion, as well as aspects of the conclusion made in 'Harvesting,' seem to be based on the same understanding of the law. Additionally, some of the numbers used within the tables provided (i.e., Table 4-4-1-1-1) are not consistent with Manitoba Hydro's. This has been brought to the attention of the MMF. Discussions to clarify this inconsistency will continue.

This report and further discussion with the MMF have allowed Manitoba Hydro to better understand the MMF perspective in relation to the Project. In reviewing the MMF report as it relates to EIS Chapters, including Fish and Fish Habitat, Vegetation and Wetlands, Wildlife and Wildlife Habitat, the MMF did not bring forward any information that contradicted the conclusions reached in the EIS. The report provided some information about addressing use or harvesting concerns. Although many of these concerns have been addressed by Manitoba Hydro in the EIS; Manitoba Hydro is currently engaging with the MMF to

further discuss these concerns. For example, regarding the use of herbicides Manitoba Hydro was able to advise that while it could not totally avoid the use of herbicides, it may be able to avoid certain areas of concern to the Metis. Manitoba Hydro also committed to providing notices about when and where herbicides would be applied and provide additional information that may address some of the concerns in regard to herbicide use. This is an issue that can be addressed through the EPP.

Another concern identified in the MMF report was that the Project will have an effect on the harvesting experience including the type of harvesting activity undertaken, harvesting success, and the perception of change in quality of harvesting experiences in the vicinity of a major development. With the variety and extent of harvesting illustrated in the maps provided, Manitoba Hydro is currently in discussions with the MMF to better understand the basis for these concerns.

After review of the report and subsequent discussions with the MMF, Manitoba Hydro is of the opinion, that the conclusions stated in the Environment Impact Statement remain the same. However there is opportunity to further review and incorporation of the information contained in the MMF Report into applicable components of the Environmental Protection Program where warranted, for example

- Construction Environmental Protection Plans will include measures to mitigate effects on gathering sites and riparian areas;
- Access Management plan will include communication measures to notify the MMF of construction activities and restrict hunting by Project staff;
- Rehabilitation and Invasive Species Management Plan will include list of species of importance to Metis;
- A Cultural and Heritage Resources Protection Plan (CHRPP) will outline Manitoba Hydro’s commitment to safeguard cultural and heritage resources and provide information on how to appropriately handle human remains or cultural and heritage resources discovered or disturbed during construction of the Project;
- Environmental Monitoring Plan will include surveys to monitor the effects on traditional use plant species.

The following table provides a summarized analysis of how the MMF Report influences conclusions of Chapters that discuss Valued Components related to MMF concerns as brought forward in the report.

Chapter	Comment and Analysis	Conclusion
8 – Assessment of Potential Effects on Fish and Fish Habitat	<p>The information provided in Figure 5-2-4 illustrates fishing areas identified by study participants. No new species or areas of habitat are identified in the MMF Report in the project area.</p> <p>The MMF report includes discussion regarding concerns over access, and potential effects related to increased access. The MMTP EIS describes how increased access to fishing areas during the construction phase could increase recreational fishing pressure in the RAA, and contribute to a change in fish mortality. However, Project personnel will be prohibited from</p>	The information provided in the MMF Report does not change any of the conclusions made in Chapter 8.

	<p>fishing at Project locations or along the ROWs. Fishing pressure increase due to increased accessibility to the watercourse is anticipated to be negligible as many of the crossing locations are near existing access points.</p>	
<p>9 – Assessment of Potential Effects on Wildlife and Wildlife Habitat</p>	<p>The MMF Report identifies concerns regarding displacement of wildlife during construction and potential for continued avoidance due to noise from the transmission lines, or reluctance to cross under transmission lines. Although the latter issue is not supported by literature reviewed on the topic, sensory disturbance and avoidance by wildlife are part of the discussion of change in habitat availability in Section 9.5.2.</p> <p>Further concerns are described in section 5.6.1 Fauna of the MMF Report. These concerns are similar to those included in Section 9.1.2 of the MMTP EIS.</p>	<p>The information provided in the MMF Report would not change the conclusion made in Chapter 9.</p>
<p>10 – Assessment of the Potential Effects on Vegetation and Wetlands</p>	<p>The gathering information provided in Figure 5-2-5, 5-2-6 and 5-2-7 (as well as other maps in the MMF report) provide descriptive spatial information important in understanding use in the project area. These gathering activities would be described in the MMTP EPP to provide further detail on Traditional use plant species in the project area. The majority of collection area is located east of the Final Preferred Route, but some areas are intersected by the ROW.</p> <p>Specific vegetation species were identified in figure 5-2-7 and 5-5-2-6, particularly tree species of concern, including, black ash, red pine and large-tooth aspen and white pine. Some of the identified collection areas are identified as being located on or near the PDA. Manitoba Hydro will further collaborate with the MMF to verify the locations of the occurrences identified in the MMF report, discuss preconstruction surveys, and work to discuss appropriate mitigation.</p> <p>Additional species are identified the MMF Report in the project area; however, all are common species associated with common community types. No areas of unique habitat types are identified in the MMF Report in the project area. Although the MMF Report includes a measurable parameter of ‘Alteration of culturally critical species’, it is unclear which particular species are culturally critical or where these culturally critical species are located. There are plant species and areas identified in Figure 5-2-5 and 5-2-6 that would be noted in the MMTP EPP.</p> <p>Manitoba Hydro is working with the MMF to obtain site specific information in order to determine sites appropriate to add as sensitive sites to the Construction Environmental</p>	<p>The information provided in the MMF Report would not change the conclusion made in Chapter 10.</p>

	<p>Protection Plan. The Plan is currently in draft state and spatial data related to geographically specific sites can be added at this time.</p> <p>The project is not likely to cause the loss of any traditional use species identified in the MMF Report or currently known in the LAA or RAA.</p> <p>The MMF also indicated a preference for the collection of mushrooms and a liverwort. Manitoba Hydro did not include these in our assessment. Mushrooms are not typically included in assessments as the visible portion is incredibly ephemeral and no jurisdiction (provincial or federal) has ranked the rarity. Lichens were not included as little is known about the rarity (there is a single species ranked in Manitoba, the flooded jellyskin lichen [<i>Leptogium rivulare</i>], with a documented occurrence northwest of Flin Flon). Risk to this species is generally from air emissions.</p>	
<p>Chapter 11 Assessment of Potential Effects to Traditional Land and Resource Use</p>	<p>In considering potential effects to Traditional Land and Resource Use, conservative assumptions were adopted which acknowledge that traditional use activities may occur near the Project, even if these activities or site-specific uses are not specifically identified by those engaged in FNMEP.</p> <p>The MMF Report provides information that can contribute to information provided in the MMTP EPP, including:</p> <ul style="list-style-type: none"> • locations of harvesting sites and areas (including hunting, trapping, fishing, plant harvesting, rock and mineral gathering sites) • descriptions of species or resources harvested (including wildlife, plants, fish, rocks and minerals), including culturally critical species • the experiential aspect of harvesting including the qualities of solitude, quietude, perceptions of safety, and perceptions of contamination <p>When assessing effects to ‘Lands available for Metis Use’, the MMF Report describes two potential effects: changes in amount of land available for Metis use and Changes in Access. The MMTP EIS describes how the presence of equipment, vehicles and workers during construction, and the physical presence of the line, may deter traditional land and resource use (Section 11.5.1 of Chapter 11). This understanding is supported in the MMF Report in the discussion of both Metis Specific Interests: Lands Available for Metis Use and Harvesting. In Lands Available for Metis Use, changes in</p>	<p>The information provided in the MMF Report would not change the conclusion made in Chapter 11.</p>

	<p>physical attributes to the project area are described in detail.</p> <p>On page 75 of the MMF Report a description of how MMF Participants <i>“have a different threshold for sensory disturbance than those listed for the EIS receptors generally considered by proponents in assessing the biophysical valued components. The EIS does not contain specific detail on Metis citizen’s unique sensory disturbance thresholds.”</i> This understanding could be included in the MMTP EPP. Heightened sensitivity to sensory disturbances would be noted.</p> <p>The MMF Report goes on to explain that survey participants indicated a perceived risk of industrial odor and other physical attribute changes (EMF, corona discharge). Manitoba Hydro would like to work with the MMF to develop relevant education materials to address this concern.</p> <p>The MMF Report provides detail on concerns related to access, and preferences for harvest. On page 103 of the report describes how <i>“...study participants indicated they would avoid transmission lines by no less than 100 m/100 yards. This is important because the diminished preference of the Project may result in further displacement of MMF citizens.”</i> As described in Chapter 11, the Project may deter TLRU. The MMF Report provides insight into the reasons for diminished preference.</p> <p>Considering the limited extent of Crown land in the PDA, findings of the assessment related to TLRU, the characterization of effects on known and assumed TLRU sites, and the fact that there will be no restrictions to access of traditional use sites on Crown lands within the Project easement, Manitoba Hydro anticipates the effects of the Project on the TLRU will be not significant.</p>	
<p>Chapter 16 – Assessment of Potential Effects on Land and Resource Use</p>	<p>Please see above discussion regarding uncertainty around the MMF Report author’s description of unoccupied and occupied lands.</p>	<p>The information provided in the MMF Report would not change the conclusion made in Chapter 16.</p>