



Transportation and Infrastructure

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January 31, 2024

Agnes Wittman
Director
Environmental Approvals Branch
Manitoba Environment and Climate
14 Fultz Boulevard
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**SUBJECT: Lake Manitoba and Lake St. Martin Outlet Channels Project –
Additional Information Request Responses**

Dear Agnes Wittman:

Manitoba Transportation and Infrastructure (MTI) is please to submit responses to the additional information requests issued by Environmental Approvals Branch (EAB) for the Lake Manitoba and Lake St. Martin Outlet Channels Project (the Project).

The enclosed responses address EAB's requests and are also consistent with information provided to the Impact Assessment Agency of Canada as part of the Project's federal environmental assessment process.

Sincerely,



Cynthia Ritchie
Assistant Deputy Minister

Question EAB-01:

Information Requests

Brief comments on the development, operation and decommissioning of work camps are requested. It is anticipated that more detailed plans will be provided later in the project design stage. In particular, comments are requested on preliminary ideas for controlling access to the camp(s) and interactions between the camps and communities.

Response EAB-01

The following response provides a supplementary analysis of current information on the configuration of camps for the Lake St. Martin Outlet Channel (LSMOC) and Lake Manitoba Outlet Channel (LMOC) construction, followed by a summary of the site selection and management processes for the proposed Lake Manitoba and Lake St. Martin Outlet Channels Project (the Project).

Volume 1, Sections 3.3.1 and 3.4.3.6 of the Project's Environmental Impact Statement (EIS) provides a description of temporary work camps. As indicated, efforts will be made to locate laydown areas and camps within the right-of-way (ROW), where feasible, or the Contractor(s) would directly negotiate with local landowners to establish their camp on private land near their particular work area (for LMOC contracts only). As indicated below, camps will be sited in locations that avoid identified or known environmentally sensitive sites including Traditional Land and Resource use sites, based on the Construction Environmental Management Program and Environmental Protection Plan (EPP) (MTI 2022a).

The specific locations, size, and configuration of work camps have not been determined. However, potential camp locations have been identified, as shown in Appendix EAB-01-01 and EAB-01-02. These potential camp locations were provided to Historic Resources Branch (HRB) to assess whether they could have the potential to impact heritage resources. Of the 14 potential camp locations, HRB has identified four locations that have higher potential for heritage resources. MTI is required to complete an HRIA for HRB review and clearance prior to initiating any ground disturbance, activity, and/or development in these four areas. HRB has indicated that the Heritage Resources Protection Plan developed for the Project needs to be applied to any temporary camp developed for the Project.

Construction staging areas will likely include mobile construction trailer facilities for use as administration buildings and equipment maintenance. Construction camps are likely to be composed of mobile construction trailer or modular facilities organized in a manner to provide sleeping quarters, living quarters, dining areas and work spaces for construction crews. Depending on the final size and occupancy of the camps and staging areas, trailers will most likely be equipped with self-contained holding tanks for potable water and septic waste. Drinking water could potentially be sourced from wells (existing permitted/licensed sources or otherwise to be permitted or licensed by contractors with approvals obtained in accordance with provincial acts and regulations) or delivered by truck from the nearest water treatment facility. Sewage holding tanks will be used to temporarily hold generated wastewater; these will be pumped out at regular intervals and disposed of at permitted or licensed facilities or lagoons, subject to any fees applied by the authority having jurisdiction. The camps will be equipped with diesel fueled generators to power the facilities. However, if located near an existing distribution line, electricity may be supplied from the existing distribution system as capacity allows.

Construction activities are currently planned to commence upon receipt of environmental regulatory approvals and will require a 4- to 5-year period to construct and commission the channels. The following

provides a summary of current planning for camps associated with the Project, the site selection process, and the management of potential adverse effects.

Lake St. Martin Outlet Channel Camps

It is anticipated that at least two construction camps would be required for the LSMOC, which would be in operation at varying capacities throughout the construction schedule. As shown in Appendix EAB-01-1, camps and staging areas for the LSMOC will be located either in existing campsites or existing borrow pits. The locations and cleared dimensions of the designated camp sites will be identified in the construction tenders and no additional clearing will be required. The largest construction camp is expected to be located close to the water control structure (WCS), as it will require the largest number of workers and require facilities, typical of other heavy civil projects that accommodate a more diverse labor force. In this case, construction and installation of the camp, offices, and all required facilities are assumed to be included as part of the WCS contract. For the clearing and channel contract(s), one or multiple smaller camps will be developed, similar to other camps recently installed in the region during construction of the Lake St. Martin Access Road and the Emergency Outlet Channel. The estimated size of camps range between approximately 30 to 100 person per contract. Considering that the Project schedule assumes that multiple contracts will occur simultaneously, peak camp capacity is still anticipated to be approximately 250, including approximately 100 for construction of the WCS and 150 for major earthworks and drop structures along the channel length.

Contractor staging areas will be used to store materials, maintain and assemble equipment, and administer work on the LSMOC, WCS, and associated components. These staging areas will be located within the ROW or designated construction camp locations; however, similar to the camps, the exact location, number, size, and details of the contractors' work areas will be proposed by contractors for review and approval by Manitoba Transportation and Infrastructure.

Lake Manitoba Outlet Channel Camps

Given the close proximity of local and Indigenous groups, cottages, and labour for the LMOC, Contractors may consider using local accommodations and commuting to the work areas (which would reduce the need for camps), but decisions will be influenced by ongoing engagement and concerns about adverse effects to local and Indigenous groups and greenhouse gas emissions from vehicles, etc. The alternative is that Contractors would establish one or two camps to meet the needs of their particular contract in supplementing existing accommodations. It was originally thought that these camps would either be located within the channel ROW, or the Contractor(s) would directly negotiate with local landowners to establish their camp on private land near their particular work area. In addition to avoiding any sensitive sites described in the EPP (MTI 2022a) and summarized below, a supplementary analysis has confirmed that LMOC camps will be located on remnant land parcels that are readily accessible via the existing municipal road network and have access to hydro and communication lines (see Appendix EAB-01-02). All camp sites for the LMOC will be located within the Rural Municipality (RM) of Grahamdale, and the RM of Grahamdale will have the opportunity to provide feedback during ongoing monthly meetings with Manitoba Transportation and Infrastructure.

Contractor staging areas will be used to receive and store materials, maintain and assemble equipment, and administer work on the proposed Project. These staging areas may be located within or adjacent to the ROW where feasible; however, similar to construction camp sites, the exact location, number, size and details of the contractors' work areas will be proposed by contractors for review and approval by Manitoba Transportation and Infrastructure.

The estimated size of workforce ranges between approximately 30 to 70 persons per contract. The proposed Project schedule assumes multiple contracts will occur simultaneously, especially during

summer months, resulting in a peak workforce of approximately 325 personnel to be housed at either existing local accommodations or construction camps. This includes approximately 75 workers for construction of the WCS, 175 workers for major earthworks, clearing and outside drain construction, and another 75 workers for road and bridge contracts.

Site Selection and Access Management

The need for and extent of temporary work camps have been discussed with Indigenous peoples and the RM of Grahamdale as part of Manitoba Transportation and Infrastructure's continuing engagement process for the Project, including maps of potential camp locations along the LSMOC. Detailed planning, construction, and operation of the work camps will be the responsibility of the Contractor, and be in accordance with Manitoba Transportation and Infrastructure's Project Environmental Requirements (MTI 2022b):

- The Contractor is required to submit details for proposed Designated Areas (which includes construction camps) to Manitoba Transportation and Infrastructure for review and acceptance.
- Locations within Designated Areas where equipment, hazardous materials and/or wastes will be stored or maintained shall be underlain with at least 30 centimetres of impermeable soil or approved equal and lined with an impermeable groundsheet to contain spills and minimize cleanup costs.
- Designated Areas shall be located a minimum of 100 metres from waterbodies or as approved by the Contract Administrator.
- The layout of construction camps, offices, and related structures shall be designed in such a fashion as to minimize the risk of exposure to wildfires.
- The Contractor shall restore the Designated Areas and access roads not required for on-going maintenance to their original condition.
- There shall be no entry of personnel or equipment, or work conducted on private property without proper authority.

Decisions about the specific locations for temporary work camps included consideration of the following factors at minimum:

- choosing locations in proximity to the construction sites for the LMOC and LSMOC to minimize travel times to work areas;
- previously developed/disturbed land would be considered advantageous to reduce the effort for site development;
- provision of existing road access;
- distance to nearby residences (locations further away from residences would be preferred);
- proximity to waterbodies (locations further away from waterbodies would be preferred);
- application of Heritage Resource Protection Plan;

- ability to be self-contained for essential facilities and services, and allowance for potable water to be brought in and domestic sewage to be taken out; and,
- availability of cellular phone coverage (where possible).

As indicated, the extent of temporary work camps have been discussed with Indigenous peoples as part of Manitoba Transportation and Infrastructure's continuing Indigenous engagement process for the Project. Similarly, potential locations of temporary work camps for the LMOC have been discussed with the RM of Grahamdale as well.

Manitoba Transportation and Infrastructure has developed mapbooks to supplement the EPPs (MTI 2022a) for the construction of the LMOC and LSMOC. These mapbooks illustrate and identify site-specific environmental features and sensitivities associated with the outlet channels. Manitoba Transportation and Infrastructure anticipates that the mapbooks will be used as a resource to support engagement efforts for camp site selection. The mapbooks will be updated based on input from engagement and will play a key role in the siting of camp sites, in terms of avoiding sensitive areas. Sensitive areas could include sites or areas used by Indigenous peoples on a seasonal/temporary basis; drinking water sources; key harvesting areas for traditional foods that are trapped, fished, hunted, harvested or grown for subsistence or medicinal purposes, or for commercial activities; and important areas use for recreation. In summary, the location and nature of the camp sites will be determined through a process that considers environmental and socio-economic considerations and involved engagement with Indigenous groups and the RM of Grahamdale. Indigenous peoples and the RM of Grahamdale may have concerns with how camp setup and operation could interfere with current or planned uses (i.e., proximity to residences, aesthetic value, quality of life); proximity of the temporary work camp and how close it may be to local communities; and public safety.

The Project Access Management Plan (AMP) (MTI 2022c) provides specific measures that will be undertaken to manage access to the Project site (including work camps) during all phases of the Project, from planning, through construction, reclamation, and operations. Key relevant objectives of the AMP include providing safe, coordinated access to the Project site; preserving and respecting the socio-economic, cultural and heritage values of the lands around the Project site; providing security for Project personnel and property; prescribing measures to minimize potential negative direct and indirect effects on Project access; protecting land users from hazards resulting from construction and operation of the Project; and minimizing land user conflicts.

The AMP stresses effective public education and communication about the Project to promote safety and to maintain an understanding among specific relevant groups and the public-at-large regarding the access management measures being implemented and maintained. It also notes the importance of promoting and maintaining the cooperation and support of parties in encouraging citizens to respect the intent of the AMP and abide by the measures. Throughout the construction phase, Manitoba Transportation and Infrastructure as the Owner (or designate) will be the main contact for communications between the construction team and the local residents and will be responsible for regular communications with Indigenous groups and non-Indigenous communities. This person will facilitate communication between the construction site staff and the local communities, including keeping community leadership apprised of Project activities. Prior to the start of construction, the Owner (or designate) will provide members of the local Indigenous groups with information about Project activities and any restrictions that will be put in place for overall public safety. In addition, The Complaint Resolution Process (MTI 2022d) has also been developed as a formal mechanism to express concerns raised by Indigenous groups. Similar commitments will be made to members of the public/non-Indigenous communities. The Owner (or designate) will work collaboratively on measures to address community concerns. The Environmental Advisory Committee (EAC) (described in response to EAB-02) will provide another formal venue for discussions.

During the operations phase, Manitoba Transportation and Infrastructure will provide effective and timely communication with stakeholders, the public, and Indigenous groups about Project activities and any restrictions put in place for overall public safety on an as-needed basis.

Implementing the AMP (MTI 2022c) will involve restricting camp access to authorized individuals to protect public safety. Only those employees who have agreed to and signed the camp agreement rules will be allowed to stay in the construction camp. The agreement will include requirements for employees to adhere to a drug and alcohol policy and the no hunting, fishing, harvesting or trapping policy. Authorized Project personnel and visitors will be able to access the site by making arrangements with Manitoba Transportation and Infrastructure. The Project site will not be accessible to members of the public during construction, with some exceptions for Indigenous peoples who intend to carry out traditional practices to the extent that such access is safe.

Decommissioning of Camps, Staging Areas and Other Temporary Work Sites

Temporary works, including access routes, laydown areas and some construction camps will be decommissioned after construction has concluded. It is anticipated that all temporary work camps used for construction of the LMOC would be decommissioned, and that 1 temporary work camp used for LSMOC be kept to facilitate the planned decommissioning of the Lake St. Martin Emergency Outlet Channel. The Site Decommissioning Plan (MTI 2022e) describes the process and environmental requirements for closure and reclamation of temporary construction facilities and borrow pits. This includes references to the Revegetation Management Plan (MTI 2022f), which includes having the organic materials stripped from the areas being redistributed to encourage natural vegetation regeneration of the area as well as seeding, and monitoring to confirm success.

References

Manitoba Transportation and Infrastructure (MTI). 2022a. Environmental Protection Plan (v.2). Available at: https://www.gov.mb.ca/mit/wms/lmbismoutlets/environmental/pdf/environmental_protection_plan2.pdf

Manitoba Transportation and Infrastructure (MTI). 2022b. Project Environmental Requirements (v.2). Available at: https://www.gov.mb.ca/mit/wms/lmbismoutlets/environmental/pdf/project_environmental_requirements2.pdf

Manitoba Transportation and Infrastructure (MTI). 2022c. Access Management Plan (v.2). Available at: https://www.gov.mb.ca/mit/wms/lmbismoutlets/environmental/pdf/access_management_plan2.pdf

Manitoba Transportation and Infrastructure (MTI). 2022d. Complaints Resolution Process (v.2). Available at: https://www.gov.mb.ca/mit/wms/lmbismoutlets/environmental/pdf/complaint_resolution_process2.pdf

Manitoba Transportation and Infrastructure (MTI). 2022e. Site Decommissioning Plan (v.2). Available at: https://www.gov.mb.ca/mit/wms/lmbismoutlets/environmental/pdf/site_decommissioning_plan2.pdf

Manitoba Transportation and Infrastructure (MTI). 2022f. Revegetation Management Plan (v.2). Available at: https://www.gov.mb.ca/mit/wms/lmbismoutlets/environmental/pdf/revegetation_management_plan2.pdf

Appendix EAB-01-01: Potential Work Camps or Staging Areas for Construction of the Lake St. Martin Outlet Channel

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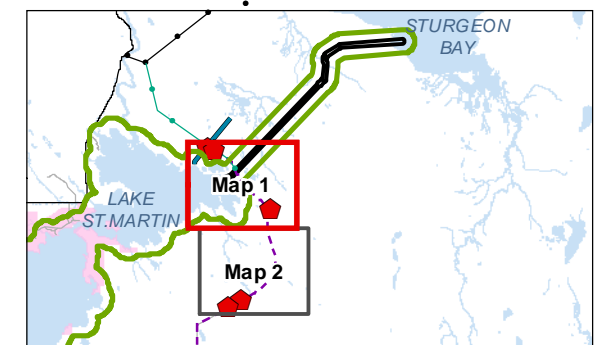
Legend

- Project Development Area (PDA)
- Vegetation/Wildlife Local Assessment Area (LAA)
- Potential Camp/Staging Locations
- Lake St.Martin Access Road
- Proposed LSMOC Distribution Line
- Lake St.Martin Emergency Outlet Channel (Reach 1)



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(At original document size of 11x17)
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- Notes**
1. Coordinate System: NAD 1983 UTM Zone 14N
 2. Data Sources: MTI, Stantec Consulting
 3. Background: Source: Esri, Maxar, Earthstar Geographics, and the GIS User Community



Project Location
Near Lake St.Martin,
Manitoba

Prepared by JH on 2023-05-26
TR by NDC on 2023-05-26

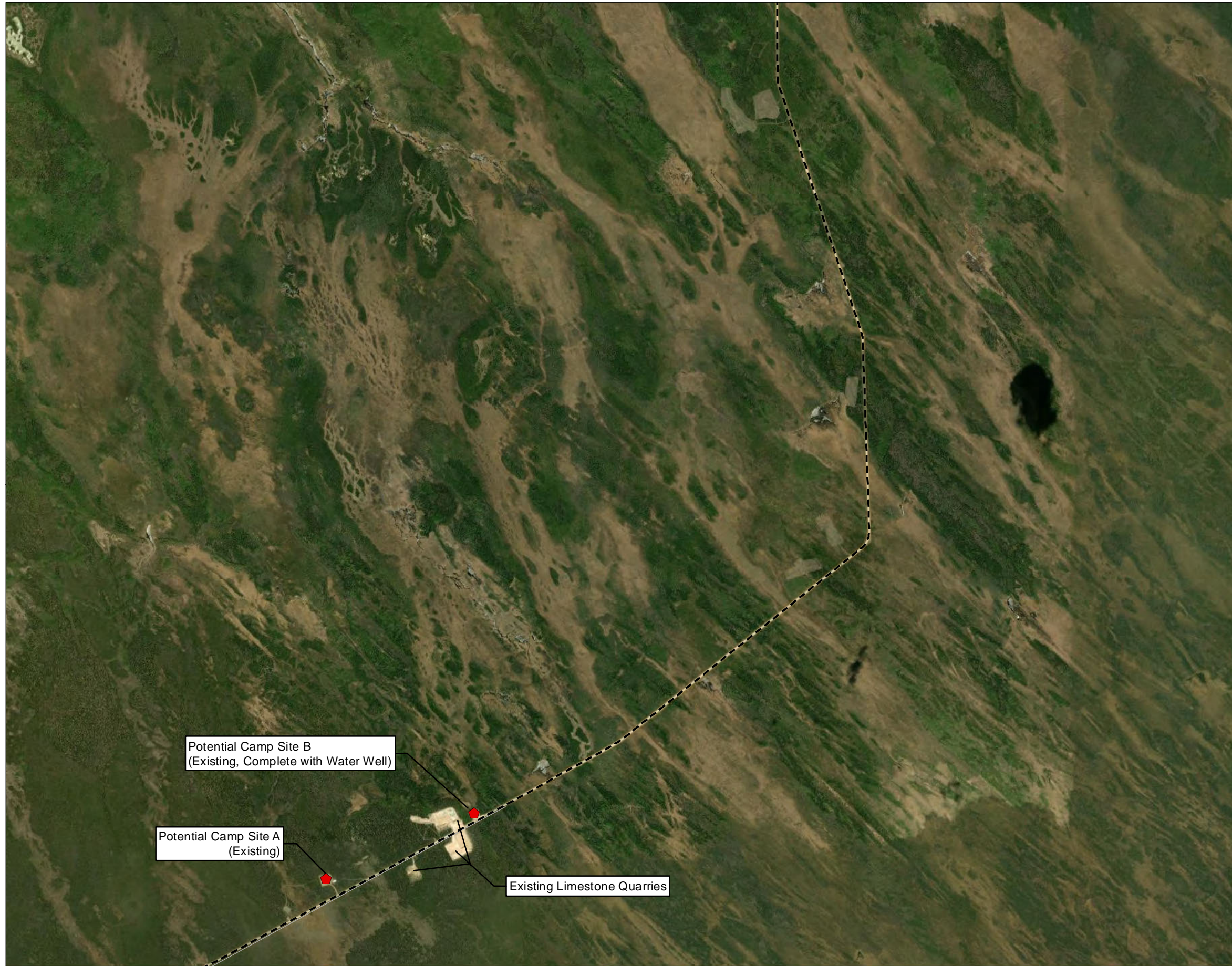
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MANITOBA TRANSPORTATION & INFRASTRUCTURE
Lake Manitoba & Lake St.Martin Outlet Channels Project

Figure No.
EAB-01-01a

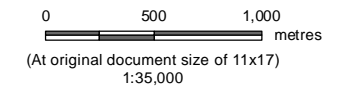
Title
Lake St. Martin Outlet Channel
Proposed Project Camp/Staging
Locations and Selected Quarry Location

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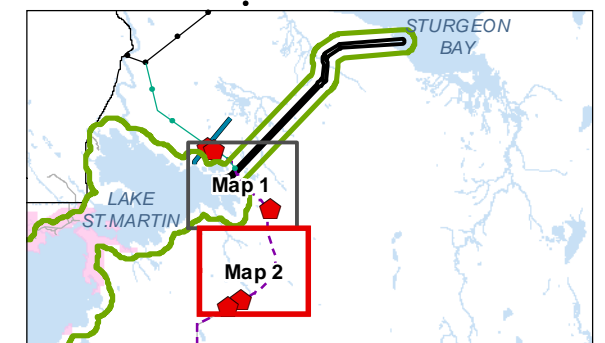


Legend

- ◆ Potential Camp/Staging Locations
- - Lake St.Martin Access Road
- Municipal Road



- Notes**
1. Coordinate System: NAD 1983 UTM Zone 14N
 2. Data Sources: MTI, Stantec Consulting
 3. Background: Source: Esri, Maxar, Earthstar Geographics, and the GIS User Community



Potential Camp Site B
(Existing, Complete with Water Well)

Potential Camp Site A
(Existing)

Existing Limestone Quarries

Project Location
Near Lake St.Martin,
Manitoba

Prepared by JH on 2023-05-26
TR by NDC on 2023-05-26

Client/Project 111475120_IAC_R2-12_LSMOC REVA

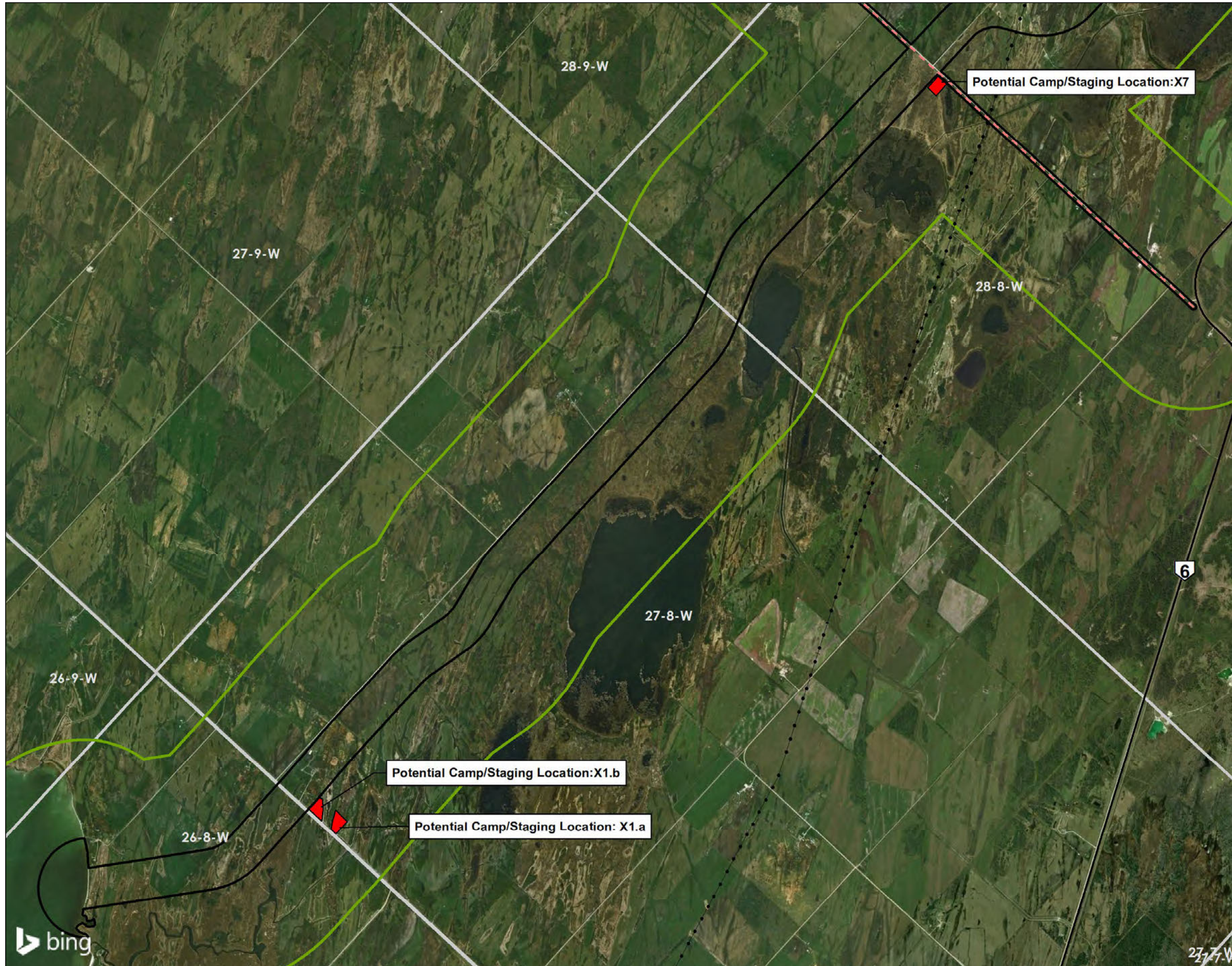
MANITOBA TRANSPORTATION & INFRASTRUCTURE
Lake Manitoba & Lake St.Martin Outlet Channels Project

Figure No.
EAB-01-01b

Title
Lake St. Martin Outlet Channel
Proposed Project Camp/Staging
Locations and Selected Quarry Location

**Appendix EAB-01-02: Potential Work Camps or Staging Areas for Construction of the Lake
Manitoba Outlet Channel**

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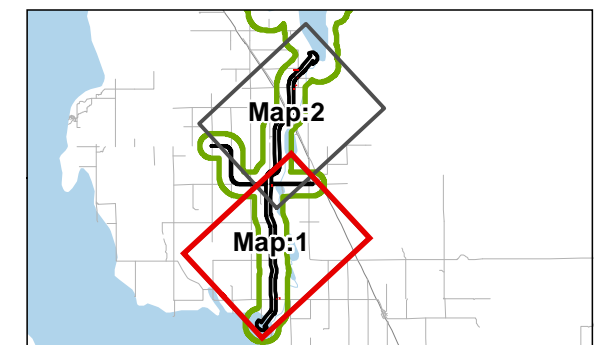
Legend

- Project Development Area (PDA)
- Proposed PR 239 Realignment
- Potential Camp/Staging Locations
- Vegetation/Wildlife Local Assessment Area (LAA)
- Existing Transmission Line
- Provincial Highway (PTH/PR)
- Townships/Ranges



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- Notes**
1. Coordinate System: NAD 1983 UTM Zone 14N
 2. Data Sources: MTI, Stantec Consulting
 3. Background: © 2023 Microsoft Corporation © 2023 Maxar ©CNES (2023) Distribution Airbus DS



Project Location
 Near Lake St. Martin,
 Manitoba

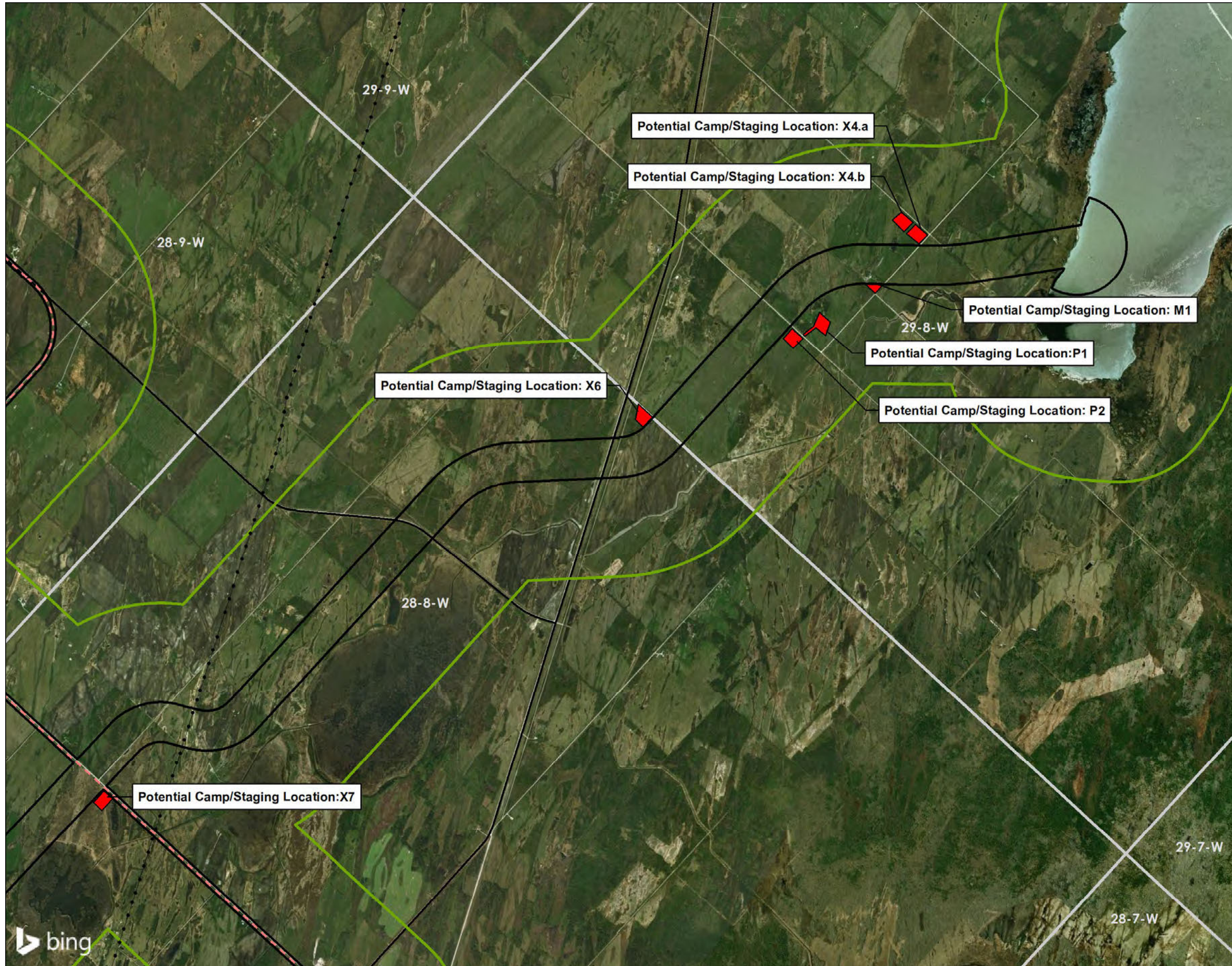
Prepared by Stantec on 2023-05-26
 TR by NDC on 2023-05-26

Client/Project
 111475120_IAAC_R2-12_LMOC REVA
 MANITOBA TRANSPORTATION & INFRASTRUCTURE
 Lake Manitoba & Lake St. Martin Outlet Channels Project

Figure No.
EAB-01-02a

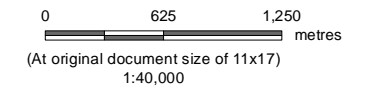
Title
**Lake Manitoba Outlet Channel Proposed
 Camp/Staging Locations**

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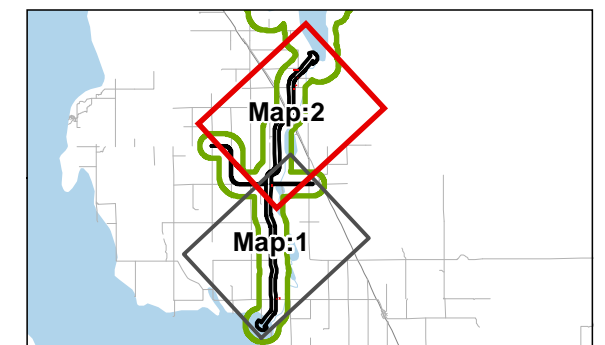


Legend

- Project Development Area (PDA)
- Proposed PR 239 Realignment
- Potential Camp/Staging Locations
- Vegetation/Wildlife Local Assessment Area (LAA)
- Existing Transmission Line
- Provincial Highway (PTH/PR)
- Townships/Ranges



- Notes**
1. Coordinate System: NAD 1983 UTM Zone 14N
 2. Data Sources: MTI, Stantec Consulting
 3. Background: © 2023 Microsoft Corporation © 2023 Maxar ©CNES (2023) Distribution Airbus DS



Project Location
Near Lake St. Martin,
Manitoba

Prepared by Stantec on 2023-05-26
TR by NDC on 2023-05-26

Client/Project 111475120_IAAC_R2-12_LMOC REVA
MANITOBA TRANSPORTATION & INFRASTRUCTURE
Lake Manitoba & Lake St. Martin Outlet Channels Project

Figure No.
EAB-01-02b

Title
**Lake Manitoba Outlet Channel Proposed
Camp/Staging Locations**

Question EAB-02

Information Requests

Has consideration been given to the establishment of a community liaison committee to provide an ongoing forum for discussion and the resolution of concerns arising during construction and the early period of operation for the project?

Response EAB-02

In response to Indigenous groups and stakeholder concerns regarding environmental mitigation and monitoring, Manitoba Transportation and Infrastructure has proposed that a Project Environmental Advisory Committee (EAC) be established for the proposed Lake Manitoba and Lake St. Martin Outlet Channels project (the Project). The EAC is an accommodation measure, intended to serve as a communication and advisory forum to provide an avenue for the flow of information between and among Indigenous groups, the RM of Grahamdale and Manitoba Transportation and Infrastructure (MTI) with a focus of providing opportunities for rights-holders and stakeholders to have meaningful input into Project planning, plan implementation, and follow up processes associated with the Project. In particular, participation in the EAC will offer Indigenous groups and the RM of Grahamdale opportunities to provide direct input into Manitoba Transportation and Infrastructure's decision-making process regarding implementation and ongoing refinement of the environmental management program (EMP) for the project.

Manitoba Transportation and Infrastructure has been working with local communities to define the structure and function for the EAC and develop a terms of reference (ToR). A copy of the EAC ToR is included in Appendix EAB-02-01, and a copy of MTI's response to the Impact Assessment Agency of Canada's information request IAAC-R2-30 is included in Appendix EAB-02-02. Local communities include Indigenous rights-holders and groups whose reserves or traditional lands are within the Project area and whose exercise of Aboriginal or Treaty rights may be directly affected by the Project considered by MTI as being potentially most affected (PMA) by the Project, as well as with the Rural Municipality (RM) of Grahamdale.

Manitoba Transportation and Infrastructure anticipates that the EAC will consist of two representatives from Manitoba Transportation and Infrastructure and two members from each of the eleven local communities. Manitoba Transportation and Infrastructure representatives will participate in EAC meetings by presenting Project information, reporting on results of monitoring programs, and responding to questions from EAC members, however, Manitoba Transportation and Infrastructure representatives will not contribute to any resolutions or decisions developed by the EAC regarding advice and recommendations on Project planning, mitigation measures, or monitoring programs associated with the EMP. Manitoba Transportation and Infrastructure was excluded from contributing to any decisions or advice made by the EAC so as to remove it from a potential conflict of interest position, and to try and address the request of local communities for the EAC to have a degree of autonomy in how they make recommendations to MTI.

In response to feedback from the RM of Grahamdale and Indigenous groups, the EAC will be led by two co-chairs selected by the participating local communities. The co-chairs will serve on a rotating basis for a length of term to be determined by the EAC. As defined in the draft ToR, the responsibility of co-chairs will be to lead and facilitate EAC meetings, reviews, and other activities to assist the EAC in functioning effectively and to achieve its objectives. Manitoba Transportation and Infrastructure is prepared to provide secretariat support to the EAC under the direction of the co-chairs. A secretariat will support the operation of the EAC by managing co-chair rotations, maintaining an EAC calendar, managing EAC logistics, preparing and distributing meeting minutes, tracking action items, and other administrative functions. To guide its work, the EAC will be asked to establish annual work plans and supporting budgets. Manitoba Transportation and Infrastructure has allocated \$3.1M in funding for the EAC to undertake its work and is also providing secretariat and technical support to ensure that the EAC can achieve its mandate.

It is expected that the primary output from the EAC will be written advice and/or recommendations to MTI with respect to the EMP and environmental aspects of the Project more generally. The ToR contemplate a process in which the EAC would provide written advice to MTI directly, and which includes an avenue for the EAC to share advice or findings directly with the relevant regulatory authority. The EAC has a wide degree of latitude on the subject matter for which it provides advice and recommendations to MTI. For example, the EAC could provide recommendations identifying that an issue or concern is occurring, whether it is identified in science-based environmental monitoring or through observations of Indigenous or local community members. It is also expected that should an adverse environmental impact be identified, that the EAC may volunteer, or may be asked, for advice on how best to mitigate or offset these impacts.

MTI is also expecting the EAC to conduct construction compliance monitoring, to ensure that contractors working on the project are adhering to the environmental protection measures identified in the EMP. Any observations of shortcomings or violations by contractors will be actioned by MTI and addressed with contractors through contractual measures and may also include adaptation of the EMP Plan(s).

The EAC will also be requested to provide specific advice and recommendations, on behalf of their member communities, regarding implementation of some portions of the EMP. For example, the EAC will be asked to recommend sites for wetland restoration, to assist implementation of the Wetland Offsetting Program, and will similarly be asked to recommend projects and sites for fish and fish habitat offsetting. Additional opportunities may arise for the EAC to provide substantive input into mitigation and offsetting measures in the EMP.

The ToR stipulates that the EAC will not have decision-making or enforcement powers over the EMP or any aspect of construction or operation of the Project. Some Indigenous groups requested that the EAC be a decision-making body with enforcement authority over the Project. However, current federal and provincial legislation and legal frameworks do not allow for ministerial decision-making power or other statutory authorities, including enforcement, to be fettered or delegated to an organization external to government. Therefore, the EAC will necessarily remain a consultative body designed to provide opportunities for local communities to provide advice or recommendations to Manitoba Transportation and Infrastructure on the refinement and implementation of the EMP, and other Project activities for the Project.

Manitoba Transportation and Infrastructure understands that participation in the EAC by any Indigenous group or the RM of Grahamdale is not to be construed as support for the Project and this is acknowledged in the ToR. The ToR also states that participation in the EAC does not replace or diminish

any right of Indigenous communities to be consulted and accommodated, where required, by the Crown. Manitoba Transportation and Infrastructure has also included a clause in the ToR, to dispel any ambiguity, that participation in the EAC does not prevent participating communities from seeking enforcement action from the appropriate regulatory authority, if warranted.

Appendix EAB-02-01: Environmental Advisory Committee Terms of Reference

Terms of Reference

Environmental Advisory Committee

Lake Manitoba and Lake St. Martin Outlet Channels Project

April 19, 2023

Manitoba Transportation and Infrastructure	Kinonjeoshtegon First Nation
Lake St. Martin First Nation	Lake Manitoba First Nation
Little Saskatchewan First Nation	Dauphin River Northern Affairs Community (NAC)
Pinaymootang First Nation	Rural Municipality of Grahamdale
Manitoba Metis Federation	Peguis First Nation ¹
Fisher River Cree Nation	
Dauphin River First Nation	

Communities that Manitoba Transportation and Infrastructure (MTI) identified as Potentially Most Affected were invited to participate in this Environmental Advisory Committee (EAC). A number of factors led to identify these communities as Potentially Most Affected, including the following:

- Potential adverse effects on Aboriginal and Treaty Rights
- Potential environmental impacts and cumulative effects
- Proximity of reserve or traditional land to Project footprint
- Communities that voiced concerns about their rights and expressed desire to be consulted.

¹ On January 20, 2023 Peguis First Nation notified MTI that it would be withdrawing from the development of the EAC TOR and would not be a member of the EAC

Background

1. MTI is the proponent for the proposed Lake Manitoba and Lake St. Martin Outlet Channels Project (the Project). The Project, including the rationale and the context for the Project, is as outlined in MTI's Environmental Impact Statement and supporting documentation subsequently filed with the Impact Assessment Agency of Canada (IAAC), Reference #80148. At present, the Project is undergoing environmental review and assessment under both federal and provincial environmental legislation.
2. The Environmental Management Program (EMP) is a framework that describes the environmental management processes to be followed during the construction and operation phases of the Project. The intent of the EMP is to facilitate the timely and effective implementation of the environmental protection measures to which MTI has committed, including the future requirements and conditions of the provincial licence under The Environment Act, the federal Decision Statement issued under the Canadian Environmental Act, 2012 and other approvals received for the Project. This includes the verification that environmental commitments are implemented, monitored, evaluated for effectiveness and adjustments made if/as required.
3. The EMP is made up of the following 23 specific plans. See Appendix B for a summary of the character of each plan:

Construction Environmental Management Program	Wetland Compensation Plan
Environmental Protection Plan	Site Decommissioning Plan
Access Management Plan	Operational Environmental Management Program
Project Environmental Requirements	Ice Management Plan
Quarry Management Plan	Wildlife Monitoring Plan
Sediment Management Plan	Aquatic Effects Monitoring plan
Surface Water Management Plan	Complaint Resolution Process
Groundwater Management Plan	Red-headed Woodpecker Habitat Management Plan
Revegetation Management Plan	Eastern Whip-Poor-Will Habitat Management Plan
Agricultural Biosecurity Management Plan	Wetland Monitoring Plan
Dust Control Plan	Fish and Fish Habitat Offsetting Plan: Initial Concepts for Discussion
Heritage Resources Protection Plan	

4. MTI, the Project proponent, has committed to forming an EAC for the Project. It is intended to serve as a communication and advisory forum to provide an avenue for the flow of information between and among Indigenous groups, the RM of Grahamdale and MTI with a focus on providing opportunities for rights-holders and stakeholders to have meaningful input into Project planning, plan implementation and follow up processes associated with the Project. It is anticipated that the work of the EAC will be carried out in three phases: The pre-construction phase, the construction phase and the operation phase. These Terms of Reference (TOR) are focused on the pre-construction and construction phases.
5. MTI has been working with the Indigenous groups and the RM of Grahamdale to develop the TOR for the EAC. However, during TOR discussions, the Indigenous groups have expressed a desire for an environmental monitoring committee that is independent from MTI. Given this desire and the desire to establish the EAC, prior to the Minister of Environment and Climate Change Canada issuing a Decision Statement or the Minister of Manitoba Environment and Climate issuing a licencing decision, these TOR reflect a balanced approach that will enable EAC members together with MTI to be best positioned to assess and mitigate potential effects and concerns of the Project as identified by the Indigenous groups and stakeholders.

Purpose and Objectives

6. **Purpose.** The EAC is to facilitate information sharing and provide advice or recommendations to MTI on the ongoing refinement of the EMP as well as on the implementation of the EMP for the Project in a coordinated and collaborative manner.
7. **Objectives.** Specific objectives that will enable fulfilment of the EAC's purpose include the following.
 - A. MTI will invite IAAC and Manitoba Environmental Approvals Branch representatives to attend all EAC activities as non-member participants.
 - B. MTI will share information about the Project, including the EMP (its specific plans) and MTI's Project monitoring results and reports.
 - C. Local Communities to share, cooperatively and transparently, information, data, observations, and local and traditional ecological knowledge relating to environmental and socio-economic concerns about the Project to inform MTI's ongoing refinement of select EMP plans as well as their implementation.
 - D. Providing a venue for communication and collaboration, which will include the ability for Local Communities to provide advice and/or recommendations to MTI regarding MTI's ongoing refinement of select EMP plans during the

pre-construction phase as well as their implementation during the construction and operation phases.

- E. To support local communities' meaningful participation in the environmental monitoring of the Project. Should MTI's Project monitoring identify that adaptive measures are required, or that unanticipated effects have been identified, MTI will work with the EAC to seek recommendations to adjust measures to specific plans or specific measures as necessary. The EAC will be encouraged to provide advice to MTI concerning the implementation and amendment of the plans in the EMP, informed by the results of environmental and compliance monitoring and in keeping with the proposed adaptive management approach.

Guiding Principles

8. **Shared interest.** EAC members share the objective of working together to enhance the ongoing refinement and implementation of the EMP for the Project.
9. **Collaborative forum.** The EAC is a forum for collaborative problem solving, priority setting, and innovation. EAC members will approach their work with openness to the concerns and perspectives of other members and will resolve to develop consensus-based solutions.
10. **Accountability and building trust.** MTI is accountable to regulatory authorities and the public to avoid and mitigate impacts from the Project. The establishment and work of the EAC is intended to build trust and strengthen the relationship between local communities and MTI.
11. **Flexible structure.** It is anticipated that the EAC, consistent with its purpose, will adapt its structure and activities. This will include, through review, amendment, and extension of these TOR to reflect the refinement of and implementation of the EMP, as well as any future requirements and conditions of the provincial licence under The Environment Act, and the federal Decision Statement issued under the Canadian Environmental Act, 2012.
12. **Working within timelines.** To have the greatest possible impact and have its views taken into account, the EAC members will strive to work within regulatory decision timelines and Project construction schedules. Therefore, the work of the EAC will be performed in three phases: The pre-construction phase, the construction phase and the operation phase.
13. **Working within current legislative and regulatory frameworks.** The EAC recognizes the current legislative and regulatory frameworks and the applicable principles of administrative law, including procedural fairness, and understands that statutory and ministerial decision-making powers, or other statutory authorities and duties, cannot be fettered or delegated to others, including to EAC.

Within those frameworks, MTI seeks to develop innovative and creative ways to support EAC's purpose.

14. ***Integration of Indigenous perspectives.*** The EAC will seek to facilitate the integration of Indigenous knowledge, values and perspectives into MTI's ongoing refinement of select EMP plans and their implementation. To this end, the EAC will be guided by section 35 of the *Constitution Act, 1982*, and the spirit and intent of the United Nations Declaration on the Rights of Indigenous Peoples, as the EAC works to support Reconciliation.

Membership

15. The EAC will consist of two MTI members and up to 22 members from the following Local Communities:
- a. Dauphin River First Nation (two members),
 - b. Lake St. Martin First Nation (two members),
 - c. Little Saskatchewan First Nation (two members),
 - d. Pinaymootang First Nation (two members),
 - e. Fisher River Cree Nation (two members),
 - f. Peguis First Nation (two members),
 - g. Kinonjeoshtegon First Nation (two members),
 - h. Lake Manitoba First Nation (two members),
 - i. Manitoba Metis Federation (two members),
 - j. Dauphin River Community (two members), and
 - k. RM of Grahamdale (two members).
- (Collectively, the Local Communities)
16. MTI's two members will participate in the EAC meetings, discussions, information sharing, and activities. However, MTI's members will refrain from participating in the EAC consensus decision-making process that results in the EAC Local Community members providing written advice or recommendations to MTI as set out in sections 51, 53 and 54.
17. Each member will appoint its own representatives to the EAC and may name alternates to serve when a member is unavailable.
18. A member or alternate may resign from the EAC by notifying the Secretariat in writing. Should a member resign, the Local Community they represented will appoint a replacement.
19. It is the choice of Local Communities to appoint representatives to the EAC. If a Local Community no longer wishes to be a member of the EAC, they are to notify the Secretariat in writing. A decision by a Local Community to be or not be an EAC member may be revoked at any time. If a Local Community revokes its decision to join or not join the EAC they are to notify the Secretariat in writing.

20. MTI will maintain and update a record of members, including contact information, and distribute it to EAC members for their reference.
21. Regardless of membership status, MTI will invite Dauphin River First Nation, Lake St. Martin First Nation, Little Saskatchewan First Nation, Pinaymootang First Nation, Fisher River Cree Nation, Peguis First Nation, Kinonjeoshtegon First Nation, Lake Manitoba First Nation, Manitoba Metis Federation, Dauphin River Community and the RM of Grahamdale to attend all EAC meetings.

EAC Secretariat

22. **Secretariat.** MTI will provide secretariat support to the EAC and will operate under the direction of the co-chairs and serve as the main point of contact for EAC members and non-member participants.
23. **Secretariat support.** The Secretariat will support the co-chairs and EAC by:
 - a. managing co-chair rotations;
 - b. maintaining an EAC calendar;
 - c. notifying EAC members of meeting details;
 - d. being responsible for meeting logistics;
 - e. receiving and distributing meeting and review materials to members and non-member participants when they are invited to attend a meeting, and providing information on other provincial processes as appropriate;
 - f. tracking actions arising from meetings;
 - g. developing and distributing meeting agendas;
 - h. preparing meeting minutes and tracking actions items and outcomes; and
 - i. serving as the EAC's main point of contact for Local Community members.

Alternates, Resources, Sub-Groups

24. **Alternate function.** The function of alternate members is to attend EAC meetings when members are unavailable so that each Local Community member is represented at as many meetings as possible. If an alternate replaces a member at a meeting, the alternate will brief the member as soon as possible on the business conducted at the meeting, including EAC consensus-based decisions or recommendations.
25. **Resources.** MTI staff or its contractors shall participate in EAC meetings in a resource capacity (non-member participant) to provide subject matter expertise or specialized advice.
26. **Invited upstream and downstream communities.** The EAC members may, by mutual agreement, invite any or all upstream and/or downstream communities listed in the attached Appendix A to have one non-member participant attend and take part in a special EAC meeting to represent the interests of their respective communities.

27. **Sub-groups.** It may sometimes be valuable for some members of the EAC to form sub-groups, which may or may not include invited upstream and downstream communities, to deal with specific topics or technical areas of interest. These sub-groups can discuss and review topics in more detail on behalf of the main EAC. Such sub-groups will be formed at the explicit agreement of the main EAC.

EAC Activities

28. **Informed by terms of reference.** The activities of the EAC will be informed by the Purpose, Objectives, and Guiding Principles set out in these TOR.
29. **Output.** The EAC is advisory in nature and its primary output under these TOR is providing written advice and/or recommendations to MTI with respect to the EMP (specific plans) and environmental aspects of the Project.
30. **Work plan and budgets.** The EAC will develop, on an annual basis, a work plan identifying the topics and activities it intends to undertake in that year to fulfill its purpose and to reflect priorities of Local Communities and MTI. The work plan will include accountabilities, budgets and timeframes consistent with the meeting calendar and be available for member communities. It is recognized that the EAC's items and activities and relevant work plans are expected to be responsive to the three phases: pre-construction phase, construction phase and operation phase.
31. **Initial tasks.** It is contemplated that the initial tasks for the EAC will include reviewing and commenting on specifically identified EMP plans and the identification and development of construction compliance monitoring activities (as identified in a work plan) to be undertaken by the EAC.
32. **Initial opportunities provided during the pre-construction phase.** To assist the EAC in its initial tasks, MTI will provide the EAC with opportunities that include, but are not limited to, the following:
- a. Reviewing the Wetland Compensation Plan and the Fish and Fish Habitat Offsetting Plan: Initial Concepts for Discussion, including identification of compensation/offsetting projects for implementation by MTI; and
 - b. Identifying and developing construction compliance monitoring activities to be undertaken by the EAC. See Appendix C for more information on proposed construction compliance monitoring activities.
33. **Opportunities provided during construction phase:** To assist the EAC in the construction phase, MTI will provide opportunities that include, but are not limited to, activities that assist the EAC to carry out construction compliance monitoring , which are contemplated to be developed in the pre-construction phase. In addition, during this phase, MTI will provide opportunities for ongoing discussions between EAC and MTI on the ongoing role, mandate and activities of the EAC for the operation phase of the Project.

Approvals and Resources

34. **Approval.** Owing to the need for accountability for public funds, the EAC's work plan and budget must be approved by both the EAC and MTI.
35. **Funding.** The EAC will operate within an overall funding envelope, which has been allocated by the Manitoba government. Upon MTI's approval of work plans and budgets as referenced above, the budget funds will be administered by MTI in accordance with requisite financial management practices.
36. **Administration of funds.** The EAC must comply with financial administration practices that are consistent with the requisite transparency and accountability for public funds. This includes a requirement to tender contracts and large purchases.

EAC Meetings

37. **Meeting frequency.** The EAC will hold six to ten meetings per year, with the provision that meetings can be cancelled if all members agree there is no need to meet. Additionally, there is an allowance for special meetings to address additional issues that may arise. EAC members will also determine what situations would trigger additional meetings.
38. **Meeting format.** The location of meetings will be determined in collaboration with the EAC members and meetings may be held virtually.
39. **Meeting agendas.** Prior to the Secretariat sending out a draft agenda, the Secretariat will canvas members for agenda topics, subject to the work plan. EAC members will provide the Secretariat with details of any topic they wish to discuss at an EAC meeting as early as possible. Agenda topics must be related either to the objectives of the EAC or to the function of the EAC itself. EAC members may bring up topics they feel fit the objectives of the EAC purpose and objectives.
40. **Co-chairs.** Meetings of the EAC will be co-chaired by one or more of the Local Community members, unless otherwise agreed by the members. The approach to co-chairing meetings will be decided by the EAC, to determine the most appropriate method for all members.
41. **Co-chair responsibility.** The overall responsibility of the co-chairs is to lead and facilitate EAC meetings, reviews and other activities to assist the EAC in functioning effectively and to achieve its objectives. The co-chairs will participate in EAC discussions to the same extent as any other member. The co-chairs are responsible for:
 - a. Welcoming members participation and feedback to the extent members would like to participate;
 - b. Creating a respectful atmosphere for reaching a consensus and providing input to the EAC; and

- c. Facilitating meetings and follow-up work to help to achieve consensus on EAC recommendations.
42. **Attendance.** Attendance requirements can be determined by the co-chairs if there is adequate representation to address the agenda topics and or an EAC member has confirmed that they support the meeting proceeding in their absence.
43. **Minutes.** The minutes of each EAC meeting will be compiled by the Secretariat and reviewed by the co-chairs. The minutes will accurately reflect the meeting discussion with sufficient detail to serve as a reference. The minutes will also capture what decisions were made, recommendations identified, action items agreed upon and who they were assigned to. Recommendations of EAC members (or a sub-group of EAC members) and action items from meetings will be captured, reviewed, and, to the extent possible, agreed upon by EAC members. The Secretariat will circulate draft-meeting minutes for review and comment to all EAC members prior to finalization.
44. **EAC member responses.** EAC members will provide written or verbal responses to the action items assigned to them as well as any written or verbal comments or questions raised on plans, programs or other documents that are within the purview of the EAC. Local Communities may provide verbal and/or written contributions based on their preferred method of engagement.

Reaching Consensus

45. **Consensus model.** The EAC and any sub-groups will deal with issues and resolve disputes using a consensus model. Everyone has an equal voice and will have an opportunity to be heard.
46. **Conduct.** Members of the EAC, and any sub-groups will:
- a. Treat each other and all members' organizations or communities with respect and good faith;
 - b. Share relevant information, to the extent they are authorized to do so;
 - c. Listen to one another with open minds in an effort to understand each other's concerns and perspectives; and
 - d. Strive to find ways to address all concerns and to incorporate different perspectives.
47. **Meaning of consensus.** Consensus means the general agreement of all the EAC or sub-group members on a course of action. Consensus does not require concurrence on every point, but rather broad agreement on the general approach to decisions or courses of action. As part of consensus decision making, points of disagreement may be identified along with an explanation as to why agreement on those points has not been possible. All suggestions for the EAC decisions or courses of action are considered tentative until a consensus is achieved.

Informed Deliberations

48. ***MTI dealings with the EAC.*** MTI will be open, accessible and transparent in its dealings with the EAC and sub-groups.
49. ***MTI information sharing.*** MTI will share information openly and within a reasonable timeframe with the EAC subject to common law privileges or other restrictions or exemptions as may be found in federal or provincial legislation concerning the disclosure of documents and other materials, or when regulators are in the middle of a decision-making process or procedural fairness otherwise prohibits disclosure.
50. ***Local Communities information sharing.*** In order to fulfill the purpose of the EAC, including the integration of Indigenous and local perspectives into the ongoing refinement of the EMP and its implementation, Local Communities are encouraged to share their perspectives, knowledge and other information with the EAC as they deem appropriate.

Advice and Recommendations

51. ***Consensus and feasibility.*** The Local Community EAC members will use their best efforts to ensure that the EAC written advice and/or recommendations submitted to MTI are technically and economically feasible and reflects a consensus among the Local Community EAC members. After making best efforts to reach a consensus, advice and/or recommendations supported by a majority of the Local Community EAC members may be submitted on behalf of the EAC for consideration by MTI, provided that:
 - a. the advice and/or recommendations were first provided to all Local Community EAC members; and
 - b. they each had an opportunity to explain, in writing, why they cannot support the advice and/or recommendations in whole or in part, and those reasons will be conveyed to MTI for consideration along with the advice and/or recommendations of the EAC.
52. ***Response from MTI.*** When the EAC provides written advice and/or recommendations on behalf of the Local Community EAC members to MTI, MTI will consider the advice and/or recommendations and will provide a written response in a timely manner.
53. ***EAC response to MTI.*** Should the EAC, on behalf of Local Community EAC members, not be satisfied with the response from MTI, the EAC will notify MTI in writing and share its concerns with MTI's response. MTI will consider the written response and provide a final written response in a timely manner.
54. ***Regulators.*** Should the EAC, on behalf of the Local Community EAC members, not be satisfied with the final response from MTI, it will notify MTI in writing. EAC

may then share advice or findings with the relevant regulatory authority providing notice to MTI of its intention to do so.

General

55. **Participation is without prejudice.** It is understood and accepted that the Local Communities have varied opinions on the Project. Participating in the work of the EAC – including by attending meetings, or by a community member acting as a member of the EAC or a sub-group – does not indicate that a community supports or does not oppose the Project. Participation in this process is “without prejudice” to the Manitoba government and Local Communities’ positions with respect to existing or prospective litigation.
56. **No diminishment of duty to consult.** The EAC will be an additional forum for engagement between MTI and Indigenous communities but will not replace or diminish any right of Indigenous communities to be consulted and accommodated, where required, by the Crown.
57. **No diminishment of MTI’s obligations.** Advice and/or recommendations provided to MTI by the EAC is intended to help MTI achieve or remain in compliance with legal requirements. This advice does not relieve MTI from its responsibility to comply with all applicable legal and regulatory requirements.
58. **Non-derogation.** Nothing in these TOR, or the deliberations and operations of the EAC, shall be construed to abrogate or derogate from Aboriginal or Treaty rights of any Indigenous nation.
59. **Relationship with enforcement.** While the EAC does not have a mandate for enforcement, participation in the EAC in no way reduces or prevents a participating EAC member community from engaging with federal or provincial regulators about an impact or concern related to the Project and requesting that it be investigated.

Review, Amendment and Renewal

60. **Review.** The EAC and MTI will review the effectiveness of these TOR, including the structure of the EAC, on an annual basis during the construction phase of the Project. The first review will be completed one year after the EAC is established, and will include at least the following:
- a. An assessment of whether and how the EAC has enhanced Local Community participation in construction compliance monitoring activities for the Project;
 - b. Should a federal environmental monitoring committee be created, an assessment of the need for and role of the EAC;
 - c. An assessment of the structure of the EAC and consideration of frequency, timing and location of meetings for the operation phase of the Project; and
 - d. A consolidation of early learnings from the EAC operations.

61. **Amendment.** These TOR may be amended by agreement in writing of MTI and the Local Community EAC members.
62. **Renewal.** These TOR will be renewed at the end of the construction phase of the Project, with input from Local Community EAC members.

Appendix A: Upstream and Downstream Community List

Upstream Community List

Sandy Bay First Nation	Keeseekoowenin Ojibway First Nation
Ebb & Flow First Nation	Skownan First Nation
O-Chi-Chak-Ko-Sipi First Nation	

Downstream Community List

Berens River First Nation	Fox Lake Cree Nation
Poplar River First Nation	Aghaming NAC
Hollow Water First Nation	Berens River NAC
Bloodvein First Nation	Fishery Bay NAC
Black River First Nation	Loon Straits NAC
Sagkeeng First Nation	Manigotagan NAC
Misipawistik Cree Nation	Matheson Island NAC
Norway House Cree Nation	Pine Dock NAC
Brokenhead Ojibway Nation	Princess Harbour NAC
Pimicikamak Cree Nation (Cross Lake)	Seymourville NAC
Tataskweyak Cree Nation (Split Lake)	Norway House NAC
York Factory First Nation	Council of Chiefs of Anishinabe Agowidiwinan (First Nations in Treaty 2 Territory)

Appendix B: Environmental Management Program Plans by Project Phase and Character

1. There are 23 plans included in the EMP, as identified in the Environmental Management Program Framework. These 23 plans may be characterized as follows:
 - A. Environmental Protection Plans (i.e. plans that prescribe mitigation measures to prevent or minimize potential impacts)
 - B. Environmental Monitoring Plans (i.e. plans that outline environmental monitoring by the proponent)
 - C. Environmental Compensation/Offset Plans (i.e. plans for environmental compensation that are required by legislation)

2. The following table provides a summary of the character of each of the 23 plans in the EMP, along with an indication of which phase(s) of the Project that the plan is anticipated to apply to.

Name of Plan	Character of Plan	Project Phase	
		Construction Phase	Operation Phase (includes maintenance activities)
Construction Environmental Management Program	Environmental Protection Plan	X	
Environmental Protection Plan	Environmental Protection Plan	X	X
Access Management Plan	Environmental Protection Plan	X	X
Project Environmental Requirements	Environmental Protection Plan	X	X
Quarry Management Plan	Environmental Protection Plan	X	X
Sediment Management Plan	Environmental Protection Plan	X	X
Surface Water Management Plan	Environmental Protection Plan	X	X
Groundwater Management Plan	Environmental Protection Plan	X	X

Revegetation Management Plan	Environmental Protection Plan	X	
Agricultural Biosecurity Management Plan	Environmental Protection Plan	X	x
Dust Control Plan	Environmental Protection Plan	X	
Heritage Resources Protection Plan	Environmental Protection Plan	X	
Wetland Compensation Plan	Environmental Compensation/Offset Plans	X	X
Site Decommissioning Plan	Environmental Protection Plan	X	X
Operational Environmental Management Program	Environmental Protection Plan		X
Ice Management Plan	Environmental Protection Plan		X
Wildlife Monitoring Plan	Environmental Monitoring Plans	X	X
Aquatic Effects Monitoring plan	Environmental Monitoring Plans	X	X
Complaint Resolution Process	Environmental Protection Plan	X	X
Red-headed Woodpecker Habitat Management Plan	Environmental Protection Plan	X	X
Eastern Whip-Poor-Will Habitat Management Plan	Environmental Protection Plan	X	X
Wetland Monitoring Plan	Environmental Monitoring Plans	X	X
Fish and Fish Habitat Offsetting Plan: Initial	Environmental Compensation/Offset Plans	X	X

Concepts for Discussion			
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Appendix C: Project Monitoring

1. As noted in sections 31, 32, and 33 of the TOR, construction compliance monitoring for the Project is expected to be a primary activity for the EAC. This appendix provides additional information on the various types of monitoring contemplated, and the roles and responsibilities of parties with respect to monitoring to assist the EAC in developing work plans.
2. MTI is planning to undertake various forms of monitoring as part of the EMP, to ensure contractor compliance with mitigation measures specified in construction contracts, EMPs and Project approvals, and to monitor the environment to verify Environmental Impact Statement predictions.
3. Federal and provincial regulators, as part of the provincial Environment Act licence or federal decision statement, are expected to prescribe requisite environmental monitoring and compliance monitoring that must be undertaken by MTI in relation to the Project.
4. The planned and prescribed monitoring described above will be undertaken by MTI using internal staff or contractors. MTI has committed, in section 7 of the TOR, to share the results of monitoring work with the EAC to assist them in fulfilling their purpose and objectives.
5. The EAC, and Local Communities through the EAC, are provided with an opportunity and resources to participate in construction compliance monitoring (i.e., observations to ensure that prescribed mitigation measures are implemented).
6. It is anticipated that the EAC will outline its proposed construction compliance monitoring activity in a work plan. Construction compliance monitoring work may be undertaken directly by EAC members or by member communities and coordinated through the EAC.

**Appendix EAB-02-02: LAKE MANITOBA AND LAKE ST. MARTIN OUTLET CHANNELS PROJECT
RESPONSE TO IAAC TECHNICAL REVIEW INFORMATION REQUESTS ROUND 2 IAAC-R2-30**

**LAKE MANITOBA AND LAKE ST. MARTIN OUTLET CHANNELS PROJECT
RESPONSE TO IAAC TECHNICAL REVIEW INFORMATION REQUESTS ROUND 2**

Question IAAC-R2-30
July 24, 2023

QUESTION IAAC-R2-30

Referenced Round 1 IR(s): 58 IR's total

Expert Dept. or group: IAAC

York Factory Cree Nation
Hollow Water First Nation
Fisher River Cree Nation
Pinaymootang First Nation
Sagkeeng First Nation
Sandy Bay First Nation
Lake St. Martin First Nation
Manitoba Metis Federation
Little Saskatchewan First Nation
Interlake Reserves Tribal Council
Regional Municipality of Grahamdale

EIS Guideline Reference: Chapter 6 Impacts to Potential or Established Aboriginal Treaty Rights
Chapter 7 Effects Assessment
Section 7.1.10 Indigenous peoples
Chapter 9 Follow-up and Monitoring Programs
Section 9.1 Follow-up Program
Section 9.2 Monitoring

Context and Rationale

The responses to multiple information requests refer to the Environmental Advisory Committee (EAC). The EAC is cited as a response to concerns raised by Indigenous groups and stakeholders regarding mitigation measures and environmental monitoring. The stated purpose is as follows:

“The EAC is intended to serve as a communication and advisory forum to provide an avenue for the flow of information between and among Indigenous groups, the RM of Grahamdale and Manitoba Transportation and Infrastructure with a focus of providing opportunities for rights-holders and stakeholders to have meaningful input into Project planning, plan implementation, and follow up processes associated with the Project. Manitoba Transportation and Infrastructure will be collaborating with Indigenous groups and stakeholders on the Terms of Reference for the Committee. Manitoba Transportation and Infrastructure anticipates that the EAC will coordinate Environmental Monitors and Project updates and communications during the construction period. Manitoba

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Question IAAC-R2-30
July 24, 2023

Transportation and Infrastructure is also coordinating with Manitoba Economic Development and Training, Indigenous Services Canada, and First Peoples Development Inc. (FPDI) to identify Project labour force requirements, procurement requirements and anticipated schedules which could assist in the development of training opportunities for Indigenous peoples to support potential employment as part of construction and environmental monitoring activities.” (Lake Manitoba And Lake St. Martin Outlet Channels Project Response to IAAC Technical Information Requests, Round 3 Question IAAC-03, Page 19 - May 31, 2022)

It is unclear how the EAC would function to assess and mitigate potential effects and concerns identified by Indigenous groups and stakeholders. Currently, further details are required on how the EAC would identify and mitigate potential effects, assess the effectiveness of mitigation and monitoring, and provide feedback to the Proponent.

Information Requests

- a. Provide details on how the EAC would be structured and operated, including its mandate, function and decision-making powers, if applicable.
- b. Provide timelines for the establishment of the EAC and its operation, and, if applicable, the conditions under which the EAC would no longer be required.
- c. Describe how Indigenous groups and the RM of Grahamdale have been involved in the formation of the EAC and how they will be involved going forward.

Response IAAC-R2-30

Preamble

Since filing responses to Information Requests (IRs) on May 31, 2022, Manitoba Transportation and Infrastructure has been working with local communities to define the structure and function for the Environmental Advisory Committee (EAC) and develop a terms of reference (ToR). Local communities include Indigenous groups considered by Manitoba Transportation and Infrastructure as being potentially most affected (PMA) by the Project, as well as the Rural Municipality (RM) of Grahamdale (see Part c below).

An initial meeting was held with invited communities on October 13, 2021, to discuss the establishment of an EAC. A first draft of the ToR was developed by Manitoba Transportation and Infrastructure in winter 2022, with the intent of serving as a starting point for discussion with communities. A second meeting was held with local communities on May 10, 2022, to review the draft ToR and receive feedback from communities. The ToR was then shared with communities on June 14, 2022. Manitoba Transportation and Infrastructure also requested additional written feedback from local communities. A third meeting was held on September 28, 2022, when local communities made several requests, including for the EAC to be led and funded by the federal government. A fourth meeting was held on October 20, 2022, when the Impact Assessment Agency of Canada (IAAC) provided a presentation on federal committees and

LAKE MANITOBA AND LAKE ST. MARTIN OUTLET CHANNELS PROJECT RESPONSE TO IAAC TECHNICAL REVIEW INFORMATION REQUESTS ROUND 2

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Manitoba Transportation and Infrastructure provided an overview of comparable committee structures in Manitoba. In response to the initial draft ToR, most local communities indicated that they wanted to be involved in drafting the ToR instead of being consulted on drafts prepared by Manitoba Transportation and Infrastructure. In Fall 2022, drafting of the ToR was restarted with the local communities providing input to guide the drafting. A fifth EAC meeting was held on November 29, 2022, specifically to discuss various topics to be covered in the ToR. An online platform was used to document feedback and to allow local communities to provide additional feedback outside of the meeting. Several local communities cited the Indigenous Advisory and Monitoring Committees established for the Enbridge Line 3 Replacement Project and the Trans Mountain Expansion Project as examples of committees that they wanted the EAC to emulate. A revised version of the ToR, based on these other committees and incorporating feedback provided by communities was circulated on December 23, 2022. A sixth EAC meeting was held on January 13, 2023, to review the second version of the ToR. The chief outstanding concerns expressed by local communities at that meeting was centered on a desire for the EAC to be entirely independent from Manitoba Transportation and Infrastructure, and for the EAC to have decision-making and enforcement authority.

Based on input received over the course of six meetings and through other correspondence, Manitoba Transportation and Infrastructure has refined the objectives and purpose of the EAC. Manitoba Transportation and Infrastructure incorporated feedback from communities and reviewed the ToR to determine what requested changes could be accommodated, and a third updated version of the ToR was distributed to communities on April 24, 2023. As Manitoba Transportation and Infrastructure described in its many of the responses to IRs in May of 2022, the overriding purpose of the EAC would be to facilitate information sharing and provide opportunities for rights-holders and stakeholders to have meaningful input into Project planning (See for example response to May 2022 IR IAAC-122). In particular, Manitoba Transportation and Infrastructure has offered that this could include the refinement of the various mitigation and monitoring plans associated with the Project Environmental Management Program (EMP) prior to construction, and the development and implementation of an EAC-led construction compliance monitoring program in a coordinated and collaborative manner. The various mitigation and monitoring plans associated with the EMP were submitted as part of the June 30, 2022, supplemental information request response to IAAC.

Through the EAC, local communities can receive and comment on information and updates about the Project from Manitoba Transportation and Infrastructure, including the results of environmental monitoring and follow-up programs. The EAC is also intended to support the meaningful participation of local communities in environmental monitoring for the Project, promote the inclusion of local and Indigenous knowledge in the EMP, and provide a direct point of contact for local communities at Manitoba Transportation and Infrastructure.

LAKE MANITOBA AND LAKE ST. MARTIN OUTLET CHANNELS PROJECT RESPONSE TO IAAC TECHNICAL REVIEW INFORMATION REQUESTS ROUND 2

Question IAAC-R2-30
July 24, 2023

a. EAC Structure and Operation

Manitoba Transportation and Infrastructure anticipates that the EAC will consist of two representatives from Manitoba Transportation and Infrastructure and two members from each of the eleven local communities. Manitoba Transportation and Infrastructure representatives will participate in EAC meetings by presenting Project information, reporting on results of monitoring programs, and responding to questions from EAC members, however, Manitoba Transportation and Infrastructure representatives will not contribute to any resolutions or decisions developed by the EAC regarding advice and recommendations on Project planning, mitigation measures, or monitoring programs associated with the EMP. This will remove Manitoba Transportation and Infrastructure from a potential conflict of interest position, and address the request of local communities for the EAC to have a degree of autonomy in how it makes recommendations to Manitoba Transportation and Infrastructure.

In response to feedback from the RM of Grahamdale and Indigenous groups, the EAC will be led by two co-chairs selected by the participating local communities. The co-chairs will serve on a rotating basis for a length of term to be determined by the EAC. As defined in the ToR, the responsibility of co-chairs will be to lead and facilitate EAC meetings, reviews, and other activities to assist the EAC in functioning effectively and to achieve its objectives. Manitoba Transportation and Infrastructure is prepared to provide secretariat support to the EAC under the direction of the co-chairs. The secretariat will support the operation of the EAC by managing co-chair rotations, maintaining an EAC calendar, managing EAC logistics, preparing and distributing meeting minutes, tracking action items, and other administrative functions. The current version of the ToR proposes that the EAC meet six to ten times a year, with provision for additional meetings as deemed necessary by the EAC. The location of meetings will be determined in collaboration with the EAC members and meetings may be held virtually if preferred or necessary.

The ToR outlines that the EAC will have a flexible structure and will adapt its format and activities in response to results of environmental and compliance monitoring and in keeping with the proposed adaptive management approach. In response to feedback on an earlier version of the ToR shared with local communities on June 14, 2022, it is proposed that the EAC will operate on a consensus model, similar to what has been used for other Indigenous Advisory and Monitoring Committees. Each participant will have an equal voice and have an opportunity to be heard. Consensus is understood to mean the general agreement of all the EAC members on a course of action. Consensus does not require unanimous concurrence on every point, but rather broad agreement on the general approach to decisions or courses of action. Where dissenting views remain, points of disagreement may be identified along with an explanation as to why agreement on those points has not been possible.

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It is expected that the primary output from the EAC will be written advice and/or recommendations to Manitoba Transportation and Infrastructure with respect to the EMP and environmental aspects of the Project more generally. The ToR contemplate a process in which the EAC would provide written advice to Manitoba Transportation and Infrastructure directly, and which also includes an avenue for the EAC to share advice or findings with the relevant regulatory authority.

During the pre-construction phase, initial tasks that have been suggested for the EAC include reviewing the Wetland Compensation Plan (WCP), the Fish and Fish Habitat Offsetting Plan and planning for construction compliance monitoring activities to be undertaken by the EAC or member communities. During the construction phase of the Project, the EAC is expected to undertake construction compliance monitoring activities, so that the work on the ground adheres to the practices and procedures identified in the EMP. To guide its work, the EAC will be asked to establish annual work plans and supporting budgets. Manitoba Transportation and Infrastructure has allocated \$3.1 million in funding for the EAC to undertake its work and is also providing secretariat and technical support so that the EAC can achieve its mandate.

The ToR stipulates that the EAC will not have decision-making or enforcement powers over the EMP plans or any aspect of construction or operation of the Project. Some Indigenous groups requested that the EAC be a decision-making body with enforcement authority over the Project. Current federal and provincial legislation and legal frameworks do not allow for ministerial decision-making power or other statutory authorities, including enforcement, to be fettered or delegated to an organization external to government. Therefore, the EAC will necessarily remain a consultative body designed to provide opportunities for local communities to provide advice or recommendations to Manitoba Transportation and Infrastructure on the refinement and implementation of the EMP, and other Project activities.

Manitoba Transportation and Infrastructure understands that participation in the EAC by any Indigenous group or the RM of Grahamdale should not be construed as support for the Project and this is acknowledged in the ToR. The ToR also states that participation in the EAC does not replace or diminish any right of Indigenous groups to be consulted and accommodated, where required, by the Crown. Manitoba Transportation and Infrastructure has also included a clause in the ToR, to dispel any ambiguity, that participation in the EAC does not prevent participating communities from seeking enforcement action from the appropriate regulatory authority, if warranted.

b. EAC Timelines

Manitoba Transportation and Infrastructure has distributed the latest version of the ToR for the EAC to communities and to date has not received any feedback. The first formal meeting of the EAC is planned for summer 2023, as soon as possible following Manitoba Transportation and Infrastructure's filing of Round 2 Information Request Responses. This will be well in advance of receiving both a provincial licence from the Minister of Environment and Climate under *The Environment Act* and a Decision Statement from the federal Minister of Environment and Climate Change under the *Canadian Environmental Assessment Act 2012*. Initiating the EAC before the licensing decisions are

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made will be important so that the EAC can provide input to the EMP before construction begins and so that the EAC can effectively plan for its participation in construction compliance activities during the construction phase of the Project.

In order to have the greatest impact and have its views taken into account, the EAC will be guided by regulatory decision timelines and Project construction schedules. The ToR suggests that the work of the EAC will be performed in three phases: the pre-construction phase, the construction phase and the operation phase. The ToR are focused on the pre-construction and construction phases of the Project. The EAC and Manitoba Transportation and Infrastructure will review the ToR, including the structure of the EAC, on an annual basis during the construction phase of the Project. The first review will be completed one year after the EAC is established. Manitoba Transportation and Infrastructure anticipates that ToR will be renewed at the end of the construction phase of the Project, with input from EAC members. Opportunities for the EAC during the operational phase of the Project will be identified by participating local communities in collaboration with Manitoba Transportation and Infrastructure at that time.

c. **Input from Indigenous groups and the RM of Grahamdale**

As described in the Preamble to this response, since September 2021, Manitoba Transportation and Infrastructure has held six meetings to discuss the EAC with Indigenous groups seen by Manitoba Transportation and Infrastructure as potentially most affected by the Project, as well as with the RM of Grahamdale. Local communities also provided input to Manitoba Transportation and Infrastructure on the EAC through correspondence and telephone calls.

A number of factors led to identify these communities as PMA, including the following:

- Potential adverse effects on Aboriginal and Treaty Rights.
- Potential environmental impacts and cumulative effects.
- Proximity of reserve or traditional land to Project footprint.
- Communities that voiced concerns about their rights and expressed a desire to be consulted.

Indigenous groups identified as PMA are listed in Section 2.5.3 of the Indigenous Consultation and Stakeholder Engagement Report (ICSER), which is included in Attachment 2 of Manitoba Transportation and Infrastructure's formal response to the Round 2 IRs on July 24, 2023, and Table 1 of the current version of the ToR (Appendix IAAC-R2-30-1). The PMA Indigenous groups and the RM of Grahamdale are referred to collectively as the local communities in the ToR.

Other Indigenous groups may be invited by EAC members to participate in meetings or participate in sub-committees on topics of interest. Other potentially interested Indigenous groups are identified in Appendix A of the ToR (Appendix IAAC-R2-30-1)

The way in which community input has been factored into the development of the ToR for the EAC include:

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- After hearing concerns about the first version of the ToR, it was decided to re-set and create a new version based on feedback from communities. This was done to demonstrate Manitoba Transportation and Infrastructure's desire to collaborate and be inclusive in the process.
- The ToR are modeled on the Terms of Reference for other Indigenous advisory and monitoring committees.
- Manitoba Transportation and Infrastructure's representatives on the EAC will refrain from participating in the EAC consensus recommendation-making process through which the EAC local community members will be able to provide written advice or recommendations to Manitoba Transportation and Infrastructure as the Project proponent.
- The EAC will be led by a rotating chair and co-chair, selected from amongst participating local communities. Agendas for future meetings will be set by the chair, co-chair and members.
- All EAC communities retain the ability to engage with federal or provincial regulators about an impact or concern, and/or request an investigation.
- Participation in the EAC is at each local community's discretion, and a local community's decision is not considered binding or final. The invited local communities are always welcome to attend EAC meetings and will continue to be engaged at the same level regardless of participation on the EAC.
- The ToR have been crafted to allow for amendments so that the EAC can reflect changing circumstances and benefit from the learning and experiences associated with the proposed Project.

As mentioned above under Part a., some Indigenous groups expressed a desire for the EAC to be a decision-making body external to the Project and independent of Manitoba Transportation and Infrastructure; however, as indicated above, there is no legal or legislative mechanism to imbue the EAC with such decision-making authority. Furthermore, Manitoba Transportation and Infrastructure is of the view that for the EAC to be successful, it will be important for the EAC to be internal to the Project and for Manitoba Transportation and Infrastructure to participate in the EAC by at a minimum sharing Project information, advising on timelines to meet regulatory conditions, clarifying legal requirements, and reporting on how information from the EAC is being considered in Project planning, development of mitigation measures, and monitoring plans. The ToR strives to achieve a balanced approach that will allow members of the EAC to bring forward issues and concerns and provide input into the EMP, while also meeting Manitoba Transportation and Infrastructure's regulatory and legal obligations.

Manitoba Transportation and Infrastructure expects that the structure, function, and mandate of the EAC will continue to evolve through ongoing discussions with local communities as the EAC undertakes its work. As such, if mutually agreed upon, the ToR themselves may also change over time.