

SUMMARY OF COMMENTS/RECOMMENDATIONS

PROPONENT: Manitoba Hydro
PROPOSAL NAME: Manitoba Hydro Grand Rapids Fish Hatchery Upgrade and Expansion
CLASS OF DEVELOPMENT: One
TYPE OF DEVELOPMENT: Fisheries – fish hatcheries
CLIENT FILE NO.: 6012.00

OVERVIEW

The Proposal was received on May 16, 2019. It was dated May 17, 2019. The advertisement of the Proposal was as follows:

“A proposal has been filed by Manitoba Hydro for the upgrading and expansion of the Grand Rapids Fish Hatchery, located at 3 McKay Avenue in Grand Rapids. The project involves infrastructure upgrades and improved biosecurity protocols, including the replacement of outdated water supply and treatment equipment and the installation of wastewater treatment equipment, along with other mechanical and electrical upgrades. New rearing equipment in the main hatchery building would expand the facility’s production capacity for lake sturgeon. Walleye hatching would be shifted to equipment to be installed in the present service garage. Treated wastewater from the operation would be discharged to the Saskatchewan River. Construction is proposed to begin in the fall of 2019, with completion by the fall of 2021. The hatchery is proposed to remain in operation in a modified manner during the construction period.”

The Proposal was advertised in the Opasquia Times on Wednesday, June 28, 2019 and in the Manitoba Gazette on June 26, 2019. It was placed in the following public registries:

- Legislative Library (Winnipeg)
- Online: <https://www.gov.mb.ca/sd/eal/registries/6012mhfishhatch/index.html>

The Proposal was distributed to Technical Advisory Committee (TAC) members on June 25, 2019.

The closing date for comments from members of the public and TAC members was July 25, 2019.

COMMENTS FROM THE PUBLIC

Manitoba Metis Federation

I am writing to you on behalf of the Manitoba Metis Federation ("MMF")-which is the democratically elected self-government representative of our Manitoba Metis Community (our "Community")-to outline the MMF's concerns with respect to Manitoba Hydro-Grand Rapids Fish Hatchery Upgrade and Expansion (the

"Project"). Specifically, the MMF is deeply concerned with the lack of consultation and respect shown by Manitoba Sustainable Development ("MSD") for the concerns of our Community and the impacts of the Project on our constitutionally-protected rights, interests, and responsibilities.

To date, the MMF has not been consulted or notified by MSD regarding the Project. We have had no discussions regarding the impacts of the Project on the constitutionally-protected rights, interests, and claims of our Community, how to mitigate such impacts, or to discuss and implement collaborative processes that respects our ongoing stewardship rights and responsibilities towards our traditional Metis territory on which the Project is located. This is entirely unacceptable. As further set out below, a respectful process of consultation with the MMF, on behalf of our Community, is clearly required, long overdue, and should begin immediately.

Our Manitoba Metis Community is an Indigenous community and Aboriginal people within the meaning of section 35 of the *Constitution Act, 1982*. Based on our emergence as a distinct Indigenous people in the Northwest prior to Canada becoming Canada, and Manitoba becoming Manitoba, our Community holds rights, interests, and claims throughout and beyond the province of Manitoba. Since 1982, our rights as Metis people have been recognized and affirmed as protected by section 35 of the *Constitution Act, 1982*. Some of our rights have been recognized by the courts (see for example, *R. v. Goodon*) and through agreements with the Crown (see for example, the Manitoba Government-MMF Points of Agreement on Metis Harvesting in Manitoba, 2012). Our Citizens, including Harvesters, rely on and use the lands, waters, and resources of our traditional territory throughout the province of Manitoba-including in the area of the Project-to exercise their constitutionally-protected rights and maintain their distinct Metis customs, traditions, and culture.

The MMF is mandated to promote, protect, and advance the collectively held Aboriginal rights of our Manitoba Metis Community, including by engaging with governments, industry, and others about potential impacts of projects or activities on our Community. In 2007 the MMF adopted Resolution No. 8 that sets out the framework for engagement, consultation, and accommodation with our Community. Designed by Metis-for Metis-Resolution No. 8 sets out the process that is to be followed by governments, industry, and other proponents when developing plans or projects that have the potential to impact the section 35 rights, claims, and interests of our Community. It was unanimously passed by MMF Citizens and mandates a "one-window" approach to consultation and engagement with our Manitoba Metis Community through the MMF Home Office.¹

1. More information about Resolution No. 8 is available at: <http://www.mmf.mb.ca/docs/2013-Resolution%208%20Booklet-VFinal.pdf>

In consulting the MMF, on behalf of our Community, the Resolution No. 8 Framework calls for the implementation of five phases:

Phase I: Notice and Response;
 Phase II: Funding and Capacity;
 Phase III: Engagement and Consultation;
 Phase IV: Partnership and Accommodation; and,
 Phase V: Implementation.

We understand that the Project will involve the expansion and upgrade of the Grand Rapids fish hatchery. This includes the construction and upgrade of infrastructure and the improvement of biosecurity protocols. There was an assessment of the potential effects from construction and operation; however, the MMF has been given no information regarding this assessment or has had no discussions about any permits or licenses applied for. The MMF is extremely disappointed that you have not consulted with us about the Project and its impacts on our Manitoba Metis Community's rights, claims, interests, and responsibilities as stewards of our traditional territory.

The proposed Project is located entirely within our traditional Metis territory. It is in an area in which the provincial Crown has recognized the section 35 Metis harvesting rights of our community, including hunting, trapping, fishing, and gathering for food and domestic use, including gathering timber. Our Citizens, including Harvesters, continue to use and rely on this area to exercise their rights today. The proposed Project is therefore expected to have an impact on the rights, claims, and interests of our Community and, as such, consultation with the MMF through the processes as set out above will need to be followed.

We would like to arrange a meeting between representatives of the MMF and MSD to discuss the Project and a process for ensuring the MMF is appropriately notified, consulted, and involved in Project-related opportunities. It is imperative that the MMF is informed as to the Project's potential impacts, both positive and negative, to our Community and their use of the lands, waters, and resources. Please contact me at your earliest opportunity via telephone at 204-586-8474 extension 234, or via email at jasmine.langhan@mmf.mb.ca to schedule a meeting to further discuss the Project, the Resolution No. 8 process, or if you require any further clarification on any matters raised in this letter.

The MMF looks forward to your response and to working collaboratively with you on this Project to ensure Metis-specific information and concerns are incorporated into a full, proper, and meaningful consultation process with our Community.

Disposition:

When the Proposal was reviewed, it was determined that since the project area was confined to the proponent's property and wastewater treatment was to be enhanced, there were no project effects on Indigenous rights or communities, and so no Crown-

Indigenous consultation was warranted for the project. The Manitoba Metis Federation was informed of this conclusion in an email of August 7, 2019.

COMMENTS FROM THE TECHNICAL ADVISORY COMMITTEE

Technical Advisory Committee (TAC) responses are summarized in Table 1 below. Substantive comments and their dispositions follow the table. TAC comments are provided in full in the public registries.

Table 1 Manitoba Hydro – Grand Rapids Fish Hatchery Upgrade and Expansion
Technical Advisory Committee Comments

No	Technical Advisory Committee Member	Response Provided
1	Manitoba Sustainable Development –	
	Environmental Approvals – Water Power Act Licensing	No concerns
	Environmental Compliance and Enforcement Branch	No response
	Climate Change and Air Quality Branch	No response
	Wildlife and Fisheries Branch	No response
	Parks and Protected Spaces Branch	No comments/concerns
	Forestry and Peatlands Branch	No concerns/comments
	Indigenous Relations Branch	No response
	Lands Branch	No response
	Water Science and Watershed Management Branch:	
	Water Quality Management Section	No response
	Groundwater Management Section	No response
	Office of Drinking Water	No concerns
	Water Use Licensing Section	No concerns
	Water Control Works and Drainage Licensing Section	No concerns
	Northwest Region Integrated Resource Management Team	No comments/concerns
2	Manitoba Sport, Culture, and Heritage – Historic Resources Branch	No concerns
3	Manitoba Growth, Enterprise and Trade –	
	Office of the Fire Commissioner	No comments/concerns
4	Manitoba Infrastructure – Highway Planning and Design Branch	No comments/concerns
5	Manitoba Municipal Relations – Community and Regional Planning Branch	No response
6	Manitoba Health, Seniors and Active Living – Environmental Health Unit	No response

ADDITIONAL INFORMATION

Additional information was not required for the Proposal.

PUBLIC HEARING

As no requests were received for a public hearing, a public hearing is not recommended.

CROWN-INDIGENOUS CONSULTATION

The Government of Manitoba recognizes it has a duty to consult in a meaningful way with Indigenous communities when any proposed provincial law, regulation, decision or action may infringe upon or adversely affect the exercise of the Indigenous rights of that community.

As discussed above, the proposal involves the construction and operation of an upgraded and expanded existing fish hatchery on the existing site. Wastewater treatment will be upgraded and treated effluent will meet regulatory requirements. Since resource use is not affected by the project, it is concluded that Crown-Indigenous consultation is not required for the project.

RECOMMENDATION

It is recommended that the Development be licensed under The Environment Act subject to the limits, terms and conditions as described on the attached Draft Environment Act Licence. Administration of the Licence should be assigned to the Northwest Region of the Environmental Compliance and Enforcement Branch.

PREPARED BY:

Bruce Webb, P. Eng.

Environmental Approvals Branch – Land Use and Energy Section
for Municipal and Industrial Section

August 9, 2019

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