



Impact Assessment
Agency of Canada

Agence d'évaluation
d'impact du Canada

MEETING

Technical Advisory Group: Lake Manitoba and Lake St. Martin Outlet Channels Project

June 25-26, 2020

8:30 a.m. to 4:30 p.m. (via videoconference)

Meeting Notes

Prepared by Carrie Peacock



6983 181st Street, Surrey, BC V3S 6X3
Tel: (604) 507-0470

info@raincoastventures.com www.raincoastventures.com

Table of Contents

JUNE 25, 2020 (DAY ONE) - TECHNICAL ADVISORY GROUP MEETING	1
Opening Protocol	1
1. Logistics.....	1
2. Welcome and Opening Remarks	1
<i>Jennifer Saxe, Director General, Regional Operations, Impact Assessment Agency of Canada</i>	<i>1</i>
3. Overview of June 2-3, 2020 TAG Meeting	2
<i>Matthew Dairon, Project Manager, Impact Assessment Agency of Canada</i>	<i>2</i>
4. Canadian Environmental Assessment Act (CEAA) 2012 Process	7
5. Water – Presentation and Discussion	12
<i>Matthew Dairon, Project Manager, Impact Assessment Agency of Canada</i>	<i>12</i>
JUNE 26, 2020 (DAY TWO) – TECHNICAL ADVISORY GROUP MEETING.....	26
6. Welcome and Overview of the June 25, 2020 Discussions.....	26
<i>Barbara Pullishy, Director, Prairie Northern Region, Impact Assessment Agency of Canada</i>	<i>26</i>
7. Fish and Fish Habitat and Fishing – Presentation and Discussion	26
<i>Matthew Dairon, Project Manager, Impact Assessment Agency of Canada</i>	<i>26</i>
8. Land – Presentation and Discussion	35
<i>Matthew Dairon, Project Manager, Impact Assessment Agency of Canada</i>	<i>35</i>
9. Cumulative Effects – Presentation and Discussion.....	44
<i>Matthew Dairon, Project Manager, Impact Assessment Agency of Canada</i>	<i>44</i>
10. Closing Comments	49
<i>Jennifer Saxe, Director General, Regional Operations, Impact Assessment Agency of Canada</i>	<i>49</i>
Closing Protocol	50
ACRONYM LIST	51
INFORMATION ITEMS	52
LIST OF ATTENDEES	53

June 25, 2020 (Day One)

OPENING PROTOCOL

Harold Tarbell, Co-Facilitator, welcomed participants to the June 25-26, 2020 Technical Advisory Group (TAG) videoconference meeting on the Lake Manitoba and Lake St. Martin Outlet Channels Project at approximately 8:35 a.m.

Jim Ransom, Co-Facilitator, acknowledged a Thanksgiving Address (the “Ohen:ton Kariwatehkwen”), traditionally offered in Mohawk communities to open and close meetings, and to give thanks for fulfilling responsibilities and taking care of creation together.

1. LOGISTICS

Facilitator Tarbell explained that he had been tasked with facilitating the June 25-26, 2020 Meeting, and that Matthew Dairon, Impact Assessment Agency of Canada (the Agency), was hosting the meeting and would address any technical issues that may arise.

During a review of the agenda for the meeting, Mr. Tarbell acknowledged the TAG members present or represented at the meeting, and participants from federal government. It was confirmed that the TAG meeting was not a replacement for consultation.

2. WELCOME AND OPENING REMARKS

Jennifer Saxe, Director General, Regional Operations, Impact Assessment Agency of Canada

Director General Saxe welcomed comments on the feedback received to date, noting that comments provided at the June 2-3, 2020 meeting, would be used to inform the information requests (IRs) being drafted by the Impact Assessment Agency of Canada to be submitted to Manitoba Infrastructure (MI).

The presentations scheduled during the June 25-26, 2020 TAG meeting, intended to review how IRs were being drafted and how feedback was being used. MI's responses received to the IRs would help inform the Environmental Assessment (EA) report, and become part of the information presented for the Minister's consideration.

The Director General noted that the Agency was aware of differing perspectives on the project, and that involvement from TAG will help to understand the potential environmental effects. The need for clear paths forward were required, including on areas expected to be most impacted by flooding.

Over the months ahead there will be multiple opportunities to consult with First Nations, the Manitoba Metis Federation (MMF), and others. The Agency remains committed to continuing to be as flexible as possible to support participation of each group, and to provide funding to support an evidence-based process. Representatives from Manitoba Conservation and Climate, federal authorities and the Agency were joining the meeting, to help inform the IRs.

3. OVERVIEW OF JUNE 2-3, 2020 TAG MEETING

Matthew Dairon, Project Manager, Impact Assessment Agency of Canada

Matthew Dairon reviewed the “Overview” section of the IAAC presentation titled, “Lake Manitoba and Lake St. Martin Outlet Channels Project” (see attached “List of Appendices”).

Meeting Discussion

The Facilitator (F) welcomed questions and comments (Q/C) from participants, and responses (R) from the presenter (or other federal government representatives) which prompted the following:

Q/C: You mentioned that you expect the process related to this project to move quickly, towards a timely decision on the EA. Can you tell us more about that?

R: *The Agency hopes to increase its ability to engage, and to advance in a timely manner.*

Q/C: The Environmental Impact Statement (EIS) is not complete. It does not define an operating regime on Lake St. Martin, with the channels in place. MI recognized they did not model the lake as two separate lakes.

The proponent is attempting to negotiate an easement with First Nations, but should also be engaging with the Rural Municipality of Grahamdale. This is integral to the project.

Manitoba Infrastructure’s presentation at the June 2-3, 2020 meeting, indicated that the project includes removing the fish ladder from the Fairford Control Structure. This would be a positive move for flood control, as it would significantly improve the capacity of the control structure by 14%; however, removing the fish ladder eliminates fish passage between Lake Winnipeg and Lake Manitoba. Consultation is needed on how the fish ladder would operate and how it would deal with fish species passing through it. How much flow is needed to pass fish through the Fairford Control Structure? An independent channel could be constructed adjacent to the Fairford Control Structure.

There are serious deficiencies in the EIS. We need to “stop the clock” on the process, to give the proponent time to respond to requests for further information. Feedback is needed from the federal representatives on how the federal process will proceed.

R: *The Department of Fisheries and Oceans (DFO) is seeking authorization related to the fisheries channel. It is our understanding that MI is looking at a fishway, outside the structure. We will seek information from First Nations on the fishway.*

Q/C: To move fish around a structure, a significant attractor flow is needed. It is critical to understand the impacts to the Lake St. Martin flood regime and how it will operate with the Fairford Control Structure. This needs to be in the EIS.

R: *We have heard concerns on modelling and related to Lake St. Martin, which are in the realm of questions that can be asked in the IR process, as part of the effects of the project. The fish ladder, is not part of the outlet channels project. There is however, the potential to explore its cumulative foreseeable effects, through water management.*

Regarding the EIS process and “pausing the clock”, the federal process has a legislated timeline, which can pause and un-pause. When the Agency requests additional information from the proponent, the federal timeline is on pause. IRs were sent to the proponent on April 23, 2020, which MI responded to on June 16, 2020. As such, the clock was paused from April 23 to June 16, 2020. The clock was turned back on when the responses were received. We are sending another packet of IRs, and the clock will be paused again until responses are received.

Q/C: The information deficiency is critical. The EA does not indicate the impacts of flooding on the project, on communities (such as Little Saskatchewan), or on the south basin of Lake St. Martin. We heard TAG members’ suggestions at the last meeting, that MI should “go back to the drawing board”, undertake a range of modelling, and then come back with a re-design. They will need fundamental proposals on how they will change the project, if MI’s design objective is to reduce flooding on Lake St. Martin.

We do not know whether their design specifications will work, as some serious engineering issues need to be addressed. The EIS process should be on hold, as the proponent is still not sure about what project they are proposing. The lake they want to flow water through has narrows, which they had not acknowledged. How can we proceed on the EA until we know how the project will function, what changes are needed to make it work, and what the impacts will be?

Issues related to flood easement have been raised, which were almost entirely excluded from the EIS. This is fundamental for communities on Lake St. Martin, which have been part of a post-flooding reconstruction process over the last several years.

MI wants communities to sign off on flood easements which will result in water continuing to flood reserve lands. As there are gaps in MI’s hydraulic modelling, we do not know how much flooding MI intends to ask for. This is a critical component of this project, which cannot be separated out.

R: *You referenced flood easements being proposed. Can you provide additional information?*

Q/C: Discussions on flood easement were based on a water level of 806 feet, which includes wave action. During the 2011 flood, the height was just short of 803 feet. If you add wave action to that height, you could anticipate another few feet – estimated at 806 feet. That is the easement MI is asking for.

Little Saskatchewan First Nation (LSFN) is concerned that if the reserve lands flood to that level, there would be flooding on hay lands, and the community cemetery. LSFN does not accept a flood easement of 806 feet. When you look at the EIS, there is no reference to the project resulting in flooding at that height. This is a gap in the EA.

It is concerning that the community has not been consulted on the easement. We do not know whether 806 feet will be enough. An 809 feet easement is more likely required.

All we have heard from MI is that this project is designed to mitigate and reduce flooding. LSFN is concerned that the project will reduce flooding on Lake Manitoba, but that flooding will continue to be the norm on the south basin of Lake St. Martin.

F: The prior TAG meeting discussed flooding, water balancing models, etc. MI has since responded to a related IR. Have the queries raised been addressed in their response?

R: *I do not believe we can incorporate questions on the easement in an IR, as it is part of a different process. We hear the concerns about flooding in the south basin and deficiencies in the modelling, and can explore these issues to gain more information.*

Q/C: It is understood that the fish ladder was removed from the modelling, to improve flood mitigation performance. There will be a significant attractor flow on top of what could potentially be flood flows. It is important to understand how this will impact the Lake St. Martin operating regime. If MI decided to remove the fish ladder it is crucial that we make sure a new fish ladder is in place.

R: *We are not aware of a plan to permanently remove the fish ladder. A new fishway was suggested, and MI is considering doing this. From DFO's perspective a fishway is needed.*

Q/C: MI confirmed the intent to remove the fishway, and have removed the fishway from their modelling. There must be operating rules on when to put the fishway in and when to remove it. It cannot be easily removed in any significant flow situation.

Q/C: The EIS is part of the federal Crown's consultation process. The duty to consult is integrated alongside, or is part of, the federal assessment process.

A review of the EIS confirms the removal of the fish ladder, which presents a serious impact on the treaty right to fish. As fishing falls under federal jurisdiction, the federal Crown has a legal duty to consult and accommodate on the impacts. How can this be included going forward? Can it be addressed in the EA?

R: *The Agency has not considered the fishway as part of the project, but can look at the EIS and what is proposed, to see how it matches up with what the Agency considers "activities that are incidental to the project". There are a number of components listed in the regulations, including the diversion of water.*

The Act requires consideration of activities that are incidental to the project. The Agency can consider how directly linked an activity is, and what activities would still continue if the project did not proceed.

To date the Agency has not considered the fishway as an incidental activity, but can look again based on what we have heard today. We can also look at how the control structure is described. Comments have been noted on the need to better understand the cumulative effects of changes to water control infrastructures, which may interact with the project.

F: Other federal processes may be related to, but not connected to, the EIS or EA processes. Can this be clarified?

R: *DFO will be able to respond to questions raised after some further research. The Agency will assess areas of federal jurisdiction related to matters including migratory birds, species at risk, etc. Regarding the fisheries authorization process through DFO, there may be some overlap with regards to informing those processes. A better understanding is needed on impacts to the fishing habitat. DFO is looking at off-setting and other mechanisms to address impacts to fish and fish habitat.*

Q/C: My great-grandfather was one of the signatories to the treaty signed in 1871. Three years later, First Nations citizens were considered to be under the *Indian Act*, on reserve. Nothing was given away in the treaty. The treaty was just an agreement to share the land.

Local treaty people want to be compensated for the land being taken for the channels that will be built. It is frustrating that the LSFN will have to voice its concerns through a traditional land use study process, when we have significant knowledge based on using the land for thousands of years. The LSFN needs to be compensated, and has never been compensated for the land taken for farming or settlements. Even the local municipality wants to be compensated for the channel.

F: Can you comment on the interface with the proponent in the IR process?

R: *It is critical to consider the context of treaty. The Agency develops IRs based on the information and comments it receives. In some instances, several comments can be combined into one IR. Some comments may need to be addressed through other avenues.*

Time is needed to review MI's responses to the April 23, 2020 IR package. Additional IRs are being developed to build on the previous IRs.

F: Are the proponent's IR responses posted on the registry?

R: *The IRs (and all comments and requests on which the IRs are based) and the responses to the IRs are posted on the registry. The proponent is able to review the background comments to gain a better understanding.*

Q/C: There are treaty issues to be dealt with by the province. I did not support Bill 69 or Bill 68 as there was not enough work done on them, and First Nations people were not involved in their development.

Indigenous people need to be involved in the creation of new legislation, and any future amendments. First Nations leaders and technicians need to be consulted on bills and particularly on how they will impact our communities, our people, and the use of the land and water. Government needs to fully understand this before changes to legislation are made.

First Nations people have survived many years on harsh land and must be involved from the beginning of processes that may impact us. Federal and provincial governments must deal with Peguis before any Crown offset programs and before this channel project begins. Federal government has a responsibility. They are a partner in treaty land entitlement processes and must deal with us, even though MI expropriated the land for this work. They still have not come to Peguis to work with us.

F: A representative from Brokenhead has asked if the proponents are responding to the federal government's IRs? Is this different from how MI responds to TAG or to a First Nations' submission?

R: *The proponent is only legislatively required to respond to IRs from the Agency.*

Chat Window Comments

During this section of the discussion, the following additional comments (unedited) were provided in the videoconference chat window:

- Question for Jennifer: Your introduction noted that you expect the process to move more quickly to reach a timely decision on the EA. Can you tell us more about that?
- One significant conclusion that was not identified in your summary was that the project is not fully defined by MI. As the hydraulic modelling does not represent that Lake St Martin is two bodies of water with the narrows as a restriction, the operating level Lake St Martin is not defined. As such, MI needs to negotiate with the First Nations and RM of Grahamdale for this easement. This easement is integral to the project and embedded in the operating rules.
- The second project deficiency is the revelation that MI is removing the fish ladder from the Fairford Control structure. This will eliminate fish passage between Lake Manitoba and Lake Winnipeg. MI responded that they were considering a new fish ladder but is not included in the project. I suggest that significant consultation and engineering detail is required for the fish ladder.
- Strongly agree with what Steve is saying. Until the gaps in hydraulic modelling, needed project design changes, and other serious information gaps, e.g., treaty rights and current use, socio-economic conditions, fish, groundwater, etc. in the EIS are addressed by the Proponent, the EA should be paused.
- Should have been in the original EIS.
- It is crucial that the Fairford Fish ladder is included in the project.
- Also any other changes that they might be making to the Fairford Control Structure.
- The removal of the fish ladder is part of the project and poses a serious impact on treaty right to fish, and fish falls within federal jurisdiction, and therefore the federal Crown has a legal duty to consult and accommodate on this potential impact.
- It just makes sense to make this part of the EA.
- The EIS says that the fish ladder will be removed.
- Would DFO like to comment on Birch Creek Drain and how MI would take away 1/3 of the spring runoff? This would impact the spring spawning grounds in the south basin of Lake St. Martin.
- The fact that the removal of the fish ladder is integral to the hydraulic modeling assumptions for the project indicates that this is more than just incidental to the project but is an important component.

- We look forward to working with IAAC to find a way to scope this into the project assessment and/or parallel consultation process. It is important to LSFN that the removal of the fish ladder is not split apart from the overall assessment.
- The RM has not yet received a surface water management plan if and when the Lake Manitoba Outlet Channel (LMOC) is built. We are concerned how the spring run-off could result in overland flooding and increase residual phosphorus into the lakes. The LMOC will separate the Watershed.
- Still not clear whether MI is responsible/will be held accountable to responding to/addressing the issues and recommendations that have been raised by representatives of this TAG OR are they only responsible for responding to the IAAC's info requests. I.e. those raised via these meetings AND from their written submissions.

4. CANADIAN ENVIRONMENTAL ASSESSMENT ACT (CEAA) 2012 PROCESS

Laurence Provencal-Vincent, Decision Statements, Impact Assessment Agency of Canada

Laurence Provencal-Vincent reviewed a presentation titled "Impact Assessment Agency of Canada – Decision Statements Under CEAA 2012 – Presentation to the TAG for the Lake Manitoba and Lake St. Martin Outlet Channels Project" (see attached "List of Appendices").

Meeting Discussion

The Facilitator (F) welcomed questions and comments (Q/C) from participants, and responses (R) from the presenter (or other federal government representatives) which prompted the following:

Q/C: The channel was not initially as deep as it is now. If this were truly a flood mitigation project, there would have been a berm involved. It appears that to achieve energy requirements, Lake Manitoba will be used as reservoir for Lake Winnipeg. Has CEAA asked MI "why" the project has been designed in this manner?

R: *Matthew Dairon's team will be involved with writing the EA report and conducting the analysis. My role in Decision Statements, begins when the Agency's project team has identified mitigation efforts, and will consider whether the wording is legally binding. It is important to understand the objective of each mitigation measure. Conditions will be enforced when the project is approved.*

Q/C: As we have not been consulted, it does not appear that our concerns are recognized as legitimate.

Q/C: How does the Agency deal with requests or concerns submitted by an Indigenous community related to Aboriginal and treaty rights if they do not fall within the parameters of Section 5 of CEAA 2012?

R: *Conditions will be drafted and prepared. We can consider areas where you would like to see more comments from the proponent. The Agency works within the bounds of legislation. If concerns on treaty rights or otherwise arise, we need to hear about them. We could connect with other federal departments to see how further conversations could continue.*

Q/C: MI intends to be awarded an environmental license, based on the development of a satisfactory plan in consultation with the Rural Municipality of Grahamdale. There should be sediment plans, groundwater management plans and a number of other plans. Will an environmental license be issued before or after satisfactory development of these plans? You are referring to acceptable mitigation measures, while MI is claiming an intent to resolve mitigation measures later, even during construction. Is CEAA considering a management plan as a tool for MI to resolve issues?

R: *We are seeking clarity to inform conditions; we still have to identify a minimum level of information to enable the Minister to make informed decisions. The Agency does not have the authority to approve plans under our legislation. Once the Minister makes a decision, conditions can be verified. We can work on outcomes and what we should be verifying at the end, and then measure its achievements.*

Q/C: Can CEAA follow up to ensure the mitigation plans are in place, enforced and satisfactory to the Rural Municipality of Grahamdale? Are there resources for follow up?

R: *Enforcement Officers, based in Ottawa, are responsible for verifying compliance with conditions. Administrative conditions will require the proponent to submit annual reports.*

Q/C: We do not know how this project will function. The hydraulic model did not consider the bottleneck effect through Lake St. Martin, which will be created by the narrows.

MI could consider:

- Not flowing as much water as planned through Lake St. Martin, which would undermine a key objective of the project;
- Dredging or blasting out the narrows, so more water could flow through; or
- Opening the flood gates, which would cause flooding throughout the communities.

The removal of the fish ladder has been identified in the project description, and as part of the hydraulic model utilized by MI. This would have significant fishery impacts. This is just part of a long list of concerns, in addition to: a complete lack of baseline information, serious problems with wildlife and groundwater assessments, and a lack of clarity on the project design. It defies logic that we continue to discuss a project we have no information on.

R: *The intent is to explain where things are moving, and focus on the current stage of the process. We hope to get information from MI to fill in the information gaps, so that we can enforce conditions properly. The concerns raised are a key aspect of the process. Feedback during TAG meetings and otherwise, is informing the IRs.*

Q/C: There has been no Indigenous consultation, or consultation with the Rural Municipalities. The process disregards Indigenous people and communities. Our concerns on the process as a whole are overarching.

F: A question has been asked regarding how many IR rounds are possible?

- R: We have heard comments on the deficiencies in consultation by MI, and concerns that MI's perspectives should have been informed by Indigenous communities. The Agency assigned a consultation team with sufficient capacity to engage in this process.*
- R: We have heard that there are information gaps. The Agency is committed to working through the EA process. The intent is to prepare an evidence-based recommendation to the Minister. The current focus is on reviewing feedback received to identify gaps in information. This will assist in preparing the next set of IRs.*
- Q/C: Legal obligations need to be upheld. We were the first people here, but the last people heard, when it comes to legal obligations. Will there be a pause in the process? What about the federal and technical processes? What would you recommend to the Minister at this point?
- R: We will be working towards developing the EA report to inform the Minister. The Agency is working to incorporate concerns into the IRs, to the extent possible, while working with MI to ensure the information is provided.*
- F: Some of the comments received in the chat window indicate a failure to respect the constitutionally-protected rights of First Nations and Indigenous people. Is there a limit on the number of rounds of IRs? How is "timely" response defined?
- Q/C: What rating would this project get with respect to the Section 35 process? Will CEAA wait until all Section 35 processes are done for communities affected by this project, before proceeding?
- R: Although the Agency does not use a rating system, there is a duty to consult which is the level the Agency strives to exceed. This is not considered any less on this project, than it would be for any other project.*
- R: The Agency considers the depth of consultation required for the project, which may be moderate for some projects and higher for others. The federal consultation needs to be adequate, given the duty to consult. The adequacy of the provincial consultation process is not assessed.*
- R: The intent is to work with communities, Rural Municipalities, and the proponents, to get the information required to inform the EA. Ideally, part of the intent of this meeting is to identify the key IRs needed, so we can move forward productively.*
- Q/C: What about consultation?
- R: The Agency needs to have a full understanding to determine which accommodations are appropriate, with respect to the federal duty. The Agency may identify matters that fall within the provincial mandate, and may engage in discussions with the province.*
- Q/C: Agency representatives referenced differences between the provincial and federal

Crown. There are no differences in relation to the honour of the Crown. First Nations entered into treaty with the Crown, and there are legal obligations that must be upheld.

- F: Indigenous groups and the Rural Municipality of Grahamdale have raised concerns regarding the fulfilment of consultation requirements. Clarification is needed on whether Section 35 of the Constitution has been acknowledged.
- R: *The Agency is not at the stage of writing conditions at this time. The intent is to develop mitigation measures that are key. There will be further occasions to discuss this, and to consider draft conditions.*

Chat Window Comments

During this section of the discussion, the following comments (unedited) were provided in the videoconference chat window:

- Re: FISH LADDER - Appendix 3D (Feb 4, 2019 Manitoba Infrastructure memo, re: Operating Rules) to Chapter 3 (Project Description) of the EIS, states: "Water Level Simulation. A Lake Manitoba/Lake St. Martin Water Balance Model developed in MS Excel by Mr. Rick Bowering was used to evaluate the impacts of the proposed operating guidelines for the outlet channels.
- Historical daily inflows to Lake Manitoba were estimated for a 103 year period (1915- 2017) based on recorded flow and water level data, a stage-storage curve for Lake Manitoba, and precipitation and evaporation data from Environment Canada.... It was also assumed that the fish ladder would be removed from the Fairford River Water Control Structure to increase outflow capacity."
- How are constitutionally protected aboriginal and treaty rights taken into account in the decision statement?
- Agreed - there is nothing in this chart to ENGAGE aboriginal peoples in thier process.
- And apparently MI is not obliged to read or meaningfully address the issues and recommendations that each Indigenous nation has raised. They can voluntarily choose to read the details of these concerns that have informed the IAAC's IRs.
- This is concerning.
- The line between Proponent Engagement and Crown Consultation is blurred in the EIS with MI being both the Proponent and the Crown. However, if an issue raised through TAG or submitted as a comment to IAAC doesn't fall within the legal parameters to be addressed by the Proponent, MI still needs to address the concern as part of its Crown consultation obligations. How does the Agency deal with requests or concerns submitted by an Indigenous community related to aboriginal and treaty rights if they do not fall within the parameters of section 5 CEAA 2012?
- MI is proposing to address mitigation measures with environmental management plans and are hoping to be awarded an environment license based on the commitment to develop a satisfactory plan in consultation with the RM Grahamdale.. Example of these plans include a surface management plan, sediment transport plan a groundwater management plan. My question is would an environment license be issued before or after the satisfactory development of these plans?

June 25, 2020 (Day One) - Technical Advisory Group Meeting

- Misipawistik Cree Nation (MCN) also has significant concerns about both the lack of fully formed mitigation measures and the lack (so far) of engagement regarding the development of these measures.
- Thanks for the presentation - a highly valuable reminder that we can't talk about conditions, redesign requirements, mitigation measures, habitat offsetting, follow-up plans, monitoring, etc., unless we know what the project design will be, and what the effects of the project will be.
- To even START to talk conditions, we need the Proponent to come back with a substantial amount of supplementary information. Given the substantial holes in the EIS, this EA should be put on hold for at least 6 months to allow the collection and analysis of this information.
- I fully agree with Trefor and Kirsten. The Project design has such significant flaws at this time that it is impossible to analyze effects.
- And also, how can a federal Minister issue a decision statement on a project that has not satisfied Indigenous communities right to be engaged or formally consulted?
- Our federal experience (NEB) regarding outstanding plans has not been good.
- A problem we see is that conditions will not necessarily go to fulfill the Guidelines for the EIS for this project. The EIS does not at this time fulfill the EIS Guidelines. The Agency needs to include the EIS Guidelines in the process of review of the EIS. IRs are needed on this track of the EIS review.
- Conditions as accommodations for impacts on Aboriginal Rights means that the project could go forward without many aspects of the EIS would not be corrected. Would they ever be corrected?
- The ground water is a huge issue for the RM. Depressurization of the wells in the area could have quite a negative effect on the drinking water. We don't want to see the wells running dry in our community.
- If responses to IR's continue to be inadequate, how long can the rounds of IR's go on?
- Information is lacking, and yes we need a lot more information. The concern from participants and their representatives are substantive and valid.
- So many delays in this process, largely due to the proponent and the provincial government. So where are we in the regulatory clock for the project?
- EIS Guidelines contain Indigenous requirements.
- The EIS never should have been approved and allowed to proceed to the technical review. The IAAC should pause the CEAA 2012 timeline until consultation can occur (which MI is only beginning now for my 3 First Nations). Further the technical issues must be ironed out by MI before discussions regarding impacts can even begin.
- Though emails are not part of any consultation!
- Every concern the RM of Grahamdale has identified has been swept under the rug. The only response we are given is not to worry there will be a plan in place to mitigate. That's not sufficient!
- My concern is that the CEAA clock must be stopped due to this significant lack of information. MI is redesigning the project and needs to fully address the information gaps. We will need the remaining time on the clock to review this new information.
- I totally agree. Mitigation plans should be in place before a decision is made - what if they can't even come up with feasible mitigation plans.
- 100% that's my fear.
- Is there a limit on the rounds of IR's?

- What is meant as a "timely decision" by the Minister on the Channels Project?
- The EIS says that in 2011, 60% of total phosphorus coming into L. Manitoba came through Portage Diversion. Parameters exceeded water quality standards for protection of aquatic life and drinking water in water samples tested at Fairford River, L. St. Martin, Dauphin R. and Sturgeon Bay in L. Winnipeg. 58 pesticides were analyzed - glyphosate was present in all samples.
- A management or monitoring plan is not going to help - what is needed is to stop the phosphorus and pesticides from entering the channels. Yet the EIS conclusion is the Project will have no residual effects on human health, ground water, surface water or aquatic country food.
- The decision on relicensing of the Lake Winnipeg Regulation is expected in the fall and the province has still not addressed accommodation measures with Pimicikamak over two years after the CEC report. This does not instill any confidence.
- Limitations on access to chat content during the day is an odd. Participants should be able to refer back to the content in chat. Surely technology can improve on this lack of access. Any who has to be away is then not able to check chat.
- Our new facilitator seems to have missed the issue regarding mitigation measures in relation to what is missing from the EIS so far, and risks that permits/license may be issued without sufficient information including as the project affects First Nations.

5. WATER – PRESENTATION AND DISCUSSION

Matthew Dairon, Project Manager, Impact Assessment Agency of Canada

Matthew Dairon reviewed the "Technical Review and Information Request Drafting - Water" section of the IAAC presentation titled, "Lake Manitoba and Lake St. Martin Outlet Channels Project".

Meeting Discussion

The Facilitator (F) welcomed questions and comments (Q/C) from participants, and responses (R) from the presenter (or other federal government representatives) which prompted the following:

Q/C: During the June 2-3, 2020 meeting, it was apparent that the EIS ignores the source of flood water and its effects, particularly in relation to the infrastructure connected to the flow of water. There were also comments on the impacts of ice on the lake.

R: *There are avenues for recognizing activities which are "impactive" to a project. Comments regarding ice on the lake, have been heard.*

Q/C: MI talked about depressurizing the ground water. If the pressure is removed in our wells, and fresh drinking water is dumped into the lake, the wells will run dry.

How many wells will be affected by depressurization? If the wells run dry, MI indicated they will be on standby to dig the wells even deeper. If they plan to dig deeper wells, how far will they have to dig? How many wells will be affected?

We are asking MI what their plan is for the surface water. It is concerning that they do

not have a surface water management plan. At the prior TAG meeting, a MI representative indicated they were “pretty sure the wells will be okay”.

R: MI indicated that if pressures are reduced, they could drill new wells, add pumps to bring the water up, and/or dig deeper wells.

The first batch of IRs requested information on design alterations planned to mitigate ground water and surface water issues. Clarification was requested on how impacts on the wells would be addressed, beyond “being there to dig deeper wells”.

Are you seeking a greater understanding of the effects of drawing down the aquifer and running the wells dry? Broad plans and limited information are common themes of the IRs sent to the proponent. One of the mitigation measures MI mentioned for backflow on one side of the channels, was to build a trench to gather the backed up flow and divert it into the channel. They were not specific in the EIS, on where the water would be diverted. What can we ask to further address your concerns?

Q/C: There are concerns regarding the inadequacy and lack of information on groundwater and surface water in the EIS and EA.

MI intends to use the wells to depressurize the carbonate aquifer. They provided diagrams in their groundwater analysis which did not show the extent of the groundwater draw down, or speak to the amount of water they expect to take from the aquifer in the depressurization process. The lack of information creates gaps in terms of assessing what the overall effect of the discharges will be on the total carbonate aquifer.

Taking water out of the system, will prompt a slow reaction in the carbonate aquifer; the aquifer’s reaction to the loss of water needs to be assessed. Some hydrogen isotope analysis has been done, which gives some analysis on how long it takes to move water to the discharge zones. It is not uncommon for an EIS to include water balancing information. Removing water will decrease the ground water level, which could impact wetlands to the east and west of the aquifer (e.g. Buffalo Lake and other creeks and river systems).

Details are needed on the amount of water coming in the recharge, and the amount going out in the discharge. Additional clarifying questions could be asked, including:

- How will the discharge from the aquifer affect the water balance?
- Can MI provide water balance information for the total aquifer, and indicate how much water will be drawn from aquifers on an annual basis?

R: Are there any other questions that would help inform this?

Q/C: Questions have been asked about water quality and phosphorus, and the potential residual effects. A prior report referenced phosphorus in Lake Manitoba. Water sample testing was done in 2011 in Sturgeon Bay, Dauphin River, etc., which indicated levels that exceeded parameters set by Manitoba water quality standards, and the federal objectives

for drinking water. Additionally, 58 different types of pesticides were found at all sites, and glyphosate, which is supposed to be acceptable as long as it does not get into water streams or creeks. Glyphosate was found in all samples. How can this be addressed?

R: The Agency can explore a source of contamination that feeds into the surface water, which did not exist previously. The Agency is trying to seek responses that are different from responses already provided. MI has held the position that the condition of the flood waters was not their concern.

Q/C: When I look at the surface water analysis in the EIS and the project description, I agree with the questions asked earlier on fish life and easements on Lake St. Martin.

The inlet elevation of the channels is important, as it will allow MI to move water through the system. What kind of structure will this be? This should be included in the EIS.

The EIS lacks information related to surface water, and analysis on a systems approach, plume modelling, and trend analysis in the north and south basins in Lake Manitoba. How do we put this in an IR?

During regular times, water comes into Lake Manitoba from Waterhen River in the north, then moves through Lake Manitoba's north basin, into Fairford River, then Lake St. Martin, then out through Dauphin River and Lake Winnipeg and onwards to Nelson River.

It is important to consider the system created when the Portage Diversion is diverting water from the Assiniboine River to Lake Manitoba, into the south basin; this changes the proportion of water that normally go into or through Fairford River. During flood conditions we know the amount of water will change, but we do not know by how much.

The water in the Assiniboine River is high in nutrients and total suspended solids (TSS). The influx into Lake Manitoba increases the nutrient concentration, particularly in the south basin. Flood waters go through Lake St. Martin and Lake Winnipeg and then up the Nelson River.

MI should present the differences between the water quality parameters that would occur when just the Waterhen River is working as the main input into the system, and then show the differential when the diversion is operating with the channels operating.

Additionally, it is important to present the baseline system and how it currently works, then add the Portage Diversion and see how it works, and then add the channels. That will indicate how the system works.

MI has not done the work, which typically would have been done in other EIS processes.

The effects of the plumes coming from the channels into Lake Winnipeg and Lake St. Martin, should have been discussed in the EIS. Will the plumes scour the bottom? How will this impact the bedforms in the lakes? Will this grow or cause a scour system? How

will plumes from the Lake St. Martin Outlet Channel (LSMOC) change the bedforms in Lake Winnipeg, in the vicinity of the Bay. Although there could be significant implications of this system (which could be in effect for 100 years), the analyses is missing.

Trend analysis is also a concern. The nutrients are increasing in Lake Manitoba despite some good work in the early 2000s. A trend of water data would show an upward slope of any line, put through the averages. The trends have not been updated and do not inform the EIS. If you have an upward trend in nutrients and then push water from Lake St. Martin into Lake Winnipeg, you can expect the trend to continue. This work is not in the EIS, although it is crucial to our understanding of the future effects of this project.

Please form your IRs around these issues. The “systems approach” methodology needs to be considered.

Q/C: The summary of some of the gaps in the water section of the EIS, is appreciated. There is value in compiling IRs that deal with a number of issues. It may be a more efficient approach to just ask MI to come back and explain what the project will look like. Once they have done some hydraulic modelling, they may make changes, which will impact how they answer the IRs.

The Agency could send an IR asking MI to come back to the TAG with a description of what the project looks like, after the hydraulic model and its implications have been considered. They could either abandon the project objectives, or come back and talk about what MI proposes to do with the redesign of their project.

If the proponent proposes changes to the flood easement, dredging, or otherwise, it should be considered a new component, not mitigation. It may be premature to prepare IRs when we really do not know what the project design is. Changes may occur after the hydraulic modelling is done.

F: Steve Topping has volunteered to assist in drafting the IR on the hydraulic modelling and the Fairford fish ladder.

R: *It may be a challenge to frame IRs in a manner in which we recognize that changes based on hydraulic modelling outcomes, will result in changes to the overall project.*

Q/C: Does the Agency accept the area boundaries, given the issues identified as being beyond the “area”?

R: *The April 2020 IR package requested information on the draw down. The prior TAG meeting noted that changes to the groundwater system, could result in impacts experienced multiple years later. The Agency could question the rationale and analysis of MI’s assessment of the pathways, and explore areas beyond the Regional Assessment Areas (RAAs) identified.*

Q/C: The carbonate aquifer serves a vast area. It is crucial to consider the long term impacts on the aquifer (e.g. within a 100-year time frame):

- MI plans to depressurize the aquifer to allow for construction of the channel, as they will be intercepting the bedrock:
 - o Water depressurization will impact the aquifer
 - o If water is discharged into the aquifer there could be groundwater issues
- Consider the distribution and speed of movement of water contaminants in the aquifer, and the ultimate impacts of long-term concentrations
- Groundwater modelling is needed to inform construction activities, quantify construction impacts, and to better understand the effects on wetlands, wells, drinking water quality, etc.
- It could be helpful to provide MI with an example of a comprehensive regional groundwater model
- It is critical to consider climate change impacts and understand the effects of the channels and winds, on the beaches of Lake Manitoba.

The Agency should carefully draft IRs to encourage MI to respond with comprehensive answers.

R: The IRs should allow MI some flexibility in how they respond, without being overly prescriptive.

Q/C: MI needs to present a regional groundwater model that shows the carbonate aquifer, recharge and discharge estimates, and the estimated sustainable yield; and should also demonstrate how the aquifer will respond to the channels cutting through it.

This is not the only model required to understand a complete water assessment. Studies are needed through Lake Winnipeg and down to Split Lake. There needs to be an understanding of the capability of including water quality in the hydro analysis. Modelling will help to assess different parameters to see how they react (e.g. the effects of plumes, TSS discharges, nutrients, etc.).

Chat Window Comments

During this section of the discussion, the following comments (unedited) were provided in the videoconference chat window:

- Please add topic of the EIS Guidelines to next TAG.
- Adding from June 2-3 the issue that Channel is proposed in a bottle, as if not connected via water flow at flood time to all other flood infrastructure (with federal agreements, and funding on the). Also EIS ignores the source of flood water, and effects there in relation to the flood water sources, and infrastructure connected to the flow of water.
- There was also a good amount of discussion regarding to issues based on winter weather, ice, ice on Lake Winnipeg and effects on the lake.
- Cumulative effects is one approach. All water infrastructure are federal also. Federal agreements, regulation, and funds.
- There needs to be an IR about project redesign features that will be required to address the new hydraulic modelling data.
- I would volunteer in assisting the drafting of the information request for the hydraulic modelling for Lake St Martin and the Fairford river fish ladder.

- Re: water/flood infrastructure comments above. This includes the Winnipeg floodway, pre and post 2005 hearing and licensing for expansion and upgrades of the floodway.
- Federal permits, federal funds, federal regulation re water levels allowed inside Winnipeg, inside the floodway.
- The IR for revised surface water modelling for Lake St. Martin should require independent 3rd party peer review of the hydraulic model, with involvement of impacted First Nations.
- Has the proponent decided on project areas sufficient to include draw down on wells? Given issues with the limitations of project areas how is responsibility for risks to wells covered? AND does the agency accept these areas boundaries given how many affected communities have been identified beyond the proponent's EIS areas.
- This is an issue of aquifer sustainability of the Carbonate Aquifer (the largest aquifer in area and volume in Manitoba). A ground water model needs to be developed that will identify the discharge to the channel or recharge to the aquifer. This groundwater model needs assess contaminate distribution and concentrations, piezometric draw down and how it impacts the wells. The groundwater model will also determine the impacts to wetlands. This model can further be applied to determine the aquifer depressurization impacts during construction.
- Steve T is correct saying a model is needed.
- Nutrient loading must be considered.
- Matt your characterization of MI response sounds as if they are not aware the Channel is for flooding emergencies, and that there is both science and responsibility that are different when the Channel is used versus in none flood years.
- Thank you to all the experts on water flow. I am wondering if the current submissions capture all these concerns adequately, or if there might be a group of Indigenous water experts and western science hydrologists who want to draft a short IR that encapsulates all these concerns and how they are both inter-connected and absolutely crucial to the project.
- It would help to know where we are at on the regulatory clock for the project.
- Changes in design cannot be mitigation. They are changes to the project. MI staff will know of the 2014 instance in Manitoba where a public works project in Manitoba was changed by the proponent during the hearings. Hearings were adjourned. Proponent was ordered to redo EIS before hearings could continue. And speak to all communities. Agreed and thanks.
- The EIS says alternative options were studied and discarded. No details were provided. All focused on cost with the wetlands creation and restoration option costing 1 - 1/2 billion dollars. There was no cost benefit analyses done despite the financial values associated with wetlands are significant - the benefits may very well outweigh the additional cost over the Channels option. Add to this the government's stated priorities for wetland protection, and it is strange that no comprehensive study and cost benefit analysis isn't being commissioned. There are success stories with similar projects for flood mitigation in N. Dakota and elsewhere. Can MI be asked to go back to the drawing board and revisit this alternative approach or is that outside the scope of the EIS guidelines?
- Overall the EIS is missing various definitions, no one place all in glossary either. An IR can ask for their definitions in relation to what our experts are discussing today. Then those definitions would have to be applied.

Meeting Discussion

The Facilitator (F) welcomed questions and comments (Q/C) from participants, and responses (R) from the presenter (or other federal government representatives) which prompted the following:

Q/C: Will the Agency be forwarding IRs on the scope of the project description? A number of issues raised relate to surface water hydrology and nutrient loading. The EIS guidelines are clear - the proponent was asked to explain the project in the context of the flood control system. Limiting the scope of the project description, limits the scope of the assessment as a whole.

MI could be asked to re-describe the project, within the context of the KGS Group's report. This would help justify the questions we are asking on these larger issues. Building the outlet channels, which may have been considered a low cost option for addressing flooding, is related in part to the Portage Diversion. Can the Agency forward these types of IRs?

R: *The Agency cannot ask MI to redefine the project, the focus needs to remain on the project they are proposing. Concerns related to Portage Diversion and other water management activities that are interlinked, could be explored through the cumulative effects assessment.*

Q/C: The Portage Diversion should be part of the cumulative effects list. The Agency should follow the intent of the assessment process, and ensure the flood control system is included as a whole. The project should have been accurately described from the beginning.

R: *We did not include "cumulative effects" in the first package of IRs. If you want feedback to support a better understanding of the water management system, and how the system functions, we can gather feedback to inform the cumulative effects IR.*

Q/C: MI has responded to a number of questions with, "this is normal", "this is outside our project area", or "this has nothing to do with our project". If they are interested in a "normal" project, they should not be constructing an emergency flood system.

Under the new *Act*, the federal government and federal regulatory process in Canada enables those impacted, to participate with funding. We have had a lot of help from experts and effected communities. There are missing pieces in the EIS related to construction. We need a way through IRs or other means, to clarify that the project requires further information and that the EIS is incomplete.

The Portage Diversion is an important piece of infrastructure, built with federal funding. The TAG could assist Agency staff, in getting the message out to the appropriate government departments, that the product is not complete.

It would be helpful for TAG members to have access to a copy of the project agreement for the channel. There are pieces that would acknowledge roles and responsibilities related to consultations, federal money and how it can be used, and the necessity of federal review. If it is not on the registry, it should be posted for TAG members to access.

- R: The Agency cannot not speak on behalf of MI, or assume their responses to questions raised. The Agency can follow up with Infrastructure Canada to see what information is available to TAG, related to the funding agreement for the channel.*
- Q/C: Have these concerns been captured? Would it be helpful to amalgamate submissions hydrology related concerns? Should hydrologists be asked to draft IRs that encapsulate these concerns?*
- R: The Agency crafts the IRs based on information submitted through Indigenous groups, public groups and others, including from federal departments.*
- R: The submissions related to ground modelling, are being reviewed while the IRs are being crafted. There may be follow-up with TAG members for clarification, if needed.*
- R: We can report back to the TAG on the accessibility of regulatory information, related to the project.*
- Q/C: What do you think about the process of Indigenous monitors overseeing the project over the next 20-50 years? This could support fisheries, communities in the north and south, and in the immediate area.*
- R: Monitoring is something the proponent could commit to, as a condition. We can report back on whether or not there are limitations to specifically requesting the involvement of Indigenous contractors, for monitoring.*
- R: Clarification is lacking on what MI is proposing as opportunities for Indigenous monitors. IRs can help gain some insight into what the proponent is committed to doing.*
- Q/C: The Province of Manitoba retained KGS Group to carry out the “Assiniboine River and Lake Manitoba Basins Flood Mitigation Study”. Flood mitigation options were identified in the 2016 KGS report, which could help reduce water levels and damage during future floods (at an estimated cost of approximately \$1.1 billion). The study referred to project alternatives and recent research by Dr. John Pomeroy, University of Saskatchewan, on modelling in the prairie wetlands, and reducing peak flows due to flooding.*
Additionally:
- The KGS report has been dismissed due to the significant cost, with may only create a minor reduction on the Assiniboine River
 - Alternative means for undertaking the current project should be considered
 - MI cites Dr. Pomeroy’s work which supports the effectiveness of land restoration
 - Analysis of flood disasters in other parts of North America, has determined the loss of wetlands, as a key contributor; the wetlands should be a key consideration
 - The 2016 KGS report recommends research be undertaken on the costs and benefits of the flood mitigation options identified.

Could the Agency craft an IR that asks if the 2016 KGS report recommendations have been considered? Could MI be required to undertake a supplementary submission that draws in the most recent peer-reviewed literature on this area?

R: "Alternatives" may be interpreted differently, for different aspects of the project. The Agency could craft IRs to gather information on specific areas.

Q/C: The only measure we have for addressing additional water flow is the engineering design of the channels. There are number of areas where wetland or fish habitat offsetting will be required with this project.

Additionally:

- Further discussion is needed with MI on what is being considered, including watershed planning and drainage
- Reports are consistently referenced in the EIS, as the basis for proceeding with the project, yet the proponent has ignored many of the reports' recommendations, including looking at what the wetlands are doing, and engaging with Indigenous and non-Indigenous communities.

Can the Agency ask MI if they followed through on supplementary studies, and the feasibility of using wetland restoration, as a project on its own, or to supplement this project? Currently this is just a water diversion project, with the potential for severe adverse effects on the environment, people and treaty rights.

R: The alternative approach to using wetland restoration to address the needs of flood mitigation, may not fit within this assessment process. The Agency may look at cumulative effects of flood mitigation and aspects of the water management system.

Q/C: The 2016 KGS report reviewed a number of viable alternatives, that were dismissed (wetlands may not have been one of them). The Agency could consider:

- Asking the proponent to provide a fairer assessment of the potential for other projects that would prevent flooding in Lake St. Martin; if they had done this initially, a number of projects could stand alone, or be knitted together to provide flood protection, without the environmental consequences the TAG is now discussing
- Encouraging the proponent to consider a flood structure as the KGS report suggested, at the inlet from Lake Winnipegosis; this would cost about \$60 million (1/10 the cost of this project):
 - o This viable alternative would involve storing water in Lake Winnipegosis and would minimize flooding in Lake Manitoba and Lake St. Martin
 - o The flood structure could drought-protect Lake Winnipegosis, and create advantages that were not considered by KGS in their cost benefit analysis.

The Agency should consider crafting an IR that asks about alternate projects considered by the proponent, and the fairness of the analysis that was done.

Q/C: Wetlands and reservoirs could take water to the upper Assiniboine Basin. An IR could ask for information and copies of the KGS Group's analysis. This project will result in a loss of wetlands. The Crown is bound by *Water Act*, and will be required to pay compensation to

Manitoba Habitat. Wetland preservation is one of the province's priorities - they have already given funding for wetland protection, and implemented regulations and programs. They are required to give \$12,000 per acre for wetlands lost. This would be significant in this region. The local community should be able to get contracts for restoration, as they are the ones being adversely affected. We have asked MI to provide details on how they see the compensation program rolling out, and what involvement the Indigenous communities will have in that progress.

R: Is the water compensation program a provincial or federal program?

*Q/C: The \$12,000/acre is in the regulation under the *Water Rights Act*, which binds the Crown.*

*Q/C: EAs can be used to understand the seriousness of adverse effects on rights. The legislative requirements are secondary to constitutional and common law requirements, on the duty to consult and accommodate. Hopefully the Crown is willing to have conversations on issues such as wetlands, even if they are not in the framework of the *Act*. Wetlands compensation is not just a provincial priority. Flood mitigation is important to Canada or they wouldn't be contributing \$250 million to this project.*

R: A better understanding is needed with regards to wetland compensation, before we can provide a fulsome response to your comments.

Q/C: Are the CEAA policy and guidelines available online? What are the roles and responsibilities for ensuring that proponents follow the EIS? What is the Agency's role in ensuring the proponent is doing their job? We need traditional environmental monitors to ensure the guidelines, recommendations and conditions imposed on them are followed. Can TAG members access that your enforcement policy?

The proponent has been chipping away at this project for some time, and has been drilling relief wells, building a road, dredging in Lake Winnipeg, etc. The Agency has been notified of these construction activities, although nothing has been done. This is why I want to know what project policies are being enforced.

R: The process will depend on the phase. Conditions for the project, which have not yet been created, will be informed through consultation and engagement. The Agency has an enforcement group that will ensure project conditions are respected and followed. We can invite representatives from the Agency's enforcement group, to a future TAG discussion, to provide an overview of their process. The concerns raised regarding current site activities, are being looked into. We will ensure TAG has access to any publicly available information related to enforcement.

*Q/C: The rapid loss of wetlands, due to agricultural drainage, is accelerating and is documented in Dr. Pomeroy's study. There has been an alarming loss of wetlands since the early 1960s, which is increasing the flood peak potential and flood volumes. This is an external influence on the drainage of wetlands and will be an ongoing issue.
Additionally:*

- If drainage continues at the current rate, the effectiveness of those channels to provide the protection they are designed for will be eroded over time
- The eroded effectiveness of the channels will impact the cost benefits of the project, and the effectiveness of flood mitigation
- The loss of wetlands translates into more water coming into Lake Manitoba in the future, with the same flood frequency
- A projection is needed on the loss of wetlands and water retention and on the effectiveness of the project's flood control measures.

The Agency could draft an IR asking MI, "What are the anticipated effects of drainage on the flood channels?"

R: Your questions on the longevity of the channels and the impacts of changing influences, are appreciated.

Q/C: There is a lack of trends analysis in the EIS. The one trend they should have looked at, is the diminishing density of the wetlands in the Assiniboine basin and the increased runoff anticipated. If there will be increased water from the drainage structures being put in, it can be projected that less water will be stored in the winter, and there will more precipitation in terms of rain. These factors need to be addressed in the EIS.

R: We gathered feedback on the impacts of the project on climate change. The additional information may go beyond what we included in the IR.

F: Will the TAG members have a chance to see IRs before they are submitted to MI?

R: The intent was not to submit drafts to the TAG before submitting them to MI. It is unclear whether MI has a responsibility to respond to questions submitted directly by the TAG members.

R: The Agency merged comments in the IRs and also referenced the submissions that informed them. MI will have access to the sources of the information requests.

F: Where are we on the regulatory clock? Are there additional pauses anticipated?

R: Today is "Day 139" of the process. The Agency has 365 days on the clock. At the end of that, the Minister will need to make a decision. The only time the clock is paused is when the IRs submitted by the Agency, are in the proponent's hand for consideration.

Chat Window Comments

During this section of the discussion, the following comments (unedited) were provided in the videoconference chat window:

- *Re: Harley's comment above, re: wetlands in flood mitigation/management. There should be an IR to provide much more detailed examination of potential effectiveness of large-scale wetland restoration and conservation to attenuate peak flows - both as (1) potential*

- alternative to current project, and (2) potential supplementary design component to help to attenuate flooding on Lake Manitoba and Lake St. Martin.
- The 2016 KGS report estimated that \$1.0 to 1.5B investment in wetlands restoration in Assiniboine Basin has potential to reduce peak flows in Assiniboine basin by 20-30%. However, this was rejected by Manitoba based on the assumption that the LMLSOC project would only cost \$450M. Having Canada offer to cover nearly half that cost has likely made this project all-the-more attractive for the province.
 - However, looking at the serious problems and gaps with the project and EIS, it appears that the total externalized/unconsidered costs of this project could add up to a much higher cost than originally estimated, and could warrant a second look at the wetlands restoration option, at the very least as a supplementary measure to reduce total flows into Lake Manitoba and Lake St. Martin during flood years.
 - Several questions regarding the surface water system and nutrient loading over time go back to the overall project description which limits the scope of the assessment. There is clear language in the EIS Guidelines requiring that the project be explained within the context of interconnected flood control systems.
 - The EIS fails to comprehensively explain the purpose and need for the project beyond being mitigation for flooding on Lake St. Martin and Lake Manitoba. The influence of the Portage Diversion must be explained in more detail and assessed for long-term effects. The surface water hydrological patterns during floods have been influenced by the Portage Diversion in 36 of the 49 years since its construction. It is important that MI be asked to provide a transparent project description in order to develop a reasonable scope for the assessment.
 - The EIS also says about 1,000 ha of wetlands will be lost (there are breakdowns by types etc.) but the point is the Crown is bound by the Water Rights Act to replace wetlands or enhance/restore wetlands on a 2:1 ratio. or for Class 3 wetlands pay what amounts to \$12,000.
 - Re: Wetlands Restoration as Project Alternative Option - Assiniboine River & Lake Manitoba Basins January 2016 Flood Mitigation Study – Final Report (KGS 12-0300-011), Section 7, "Flood Protection Measures" p. xviii. "...the most recent modelling on the role of prairie wetlands on flooding by Pomeroy indicates that wetlands drainage may play a significant role in flooding.
 - This work is unquestionably the best available tool for simulating the hydrology of prairie watersheds including intact and drained wetlands. However, the complexity of the wetland drainage issues demands more thorough basin-wide and geographically based assessments to verify the model and Pomeroy's findings.
 - Based on Pomeroy's findings, a basin wide analysis was conducted to determine the viability of wetlands restoration as a flood mitigation solution. It was found that the estimated cost of wetland restoration to obtain a 20% to 30% reduction in flow on the Assiniboine River would range between \$1.0 billion to \$1.5 billion.
 - MI will have to pay \$12,000/acre for Class 3 wetlands lost or altered - to be paid to MB Habitat Heritage Corp. or other organization. There are no details in the EIS about the compensation or where wetland restoration/ replacement will take place. This should occur in the area. It wouldn't be fair to remove wetlands in this area and pay someone to develop or restore wetlands in another part of the province. Also, affected communities should be given the contract opportunities for these developments.

- This report recommended further study of this option. LSFN would like to see an IR related to whether the recommendation of this report was heeded by Manitoba, i.e., "A multi-year pilot study on wetland restoration should be considered to determine the costs and benefits of wetland restoration on flood attenuation, and the cost would be in the range of \$10 to \$20 million."
- It should also ask for copies of the study and analyses that were done by KGS for this alternative.
- We have asked in our information requests that MI be asked to explain this proposed project within the context of the 2016 KGS report.
- Grahamdale also supports the Upper Assiniboine Basin watershed restoration alternative that reverses the impact of agriculture drainage of wetlands. Wetland restoration projects on the Red River in Minnesota, North Dakota and South Dakota have been successful in establishing hundreds of thousands of acres of on farm storage that has provided flood attenuation on the main stem of the Red river. A huge benefit for Manitoba and City of Winnipeg flood protection. this alternative should be given greater consideration.
- Can the experts provide a combined submission on this subject?
- Will we have a chance to see the IRs before they are submitted to MI?
- Re: comment about Dakota on land water storage in flood years. This was a recommendation after 97 flood and under development in committee work I participated in. Though it took too long.
- Misipawistik, Peguis and Taskweyask have put a great deal of thought and effort into their IRs. Why can't these questions be directly submitted to MI?
- What does CEAA and Guidelines for Channel project say about alternatives to the project? Responsibility of proponent re alternatives?
- MI has been part of all steps since 2011 flood. They should be quite knowledgeable re: the 2014 work and 2016 report.
- The IR's we constructed were also done very carefully based on a detailed reading of the EIS.
- Dakota success and earlier policy discussions and recommendations in Manitoba is for wetlands AND farmlands to be temporarily flooded and to slow down/ reduce flood.
- Participants here are pointing to their work on IRs. In Manitoba we are used to participating in provincial proceedings where participants submit direct IRs. Also Manitoba a participants have participated in two recent NEB proceedings where IRs were submitted directly to proponent.
- The question can be asked with regards to alternative means to meet the objectives of the project - which are to reduce flooding on these lakes. Wetland restoration is a long-term mitigation measure which should be pursued in any case as a matter of land management policy. If wetland restoration is not considered to be capable of meeting the objectives of flood reduction, then MI should provide an explanation of their position on this issue.
- The KGS study in 2016 recommended the outlet channels as one aspect of a suite of measures to mitigate flooding, not as a stand-alone measure.
- The KGS report concluded that a control structure on the Waterhen River would not fly politically.
- The comments on wetland restoration are right on. If the drainage of wetlands in the Upper Assiniboine Basin continue at the pace the historically has occurred, the Lake Manitoba Outlet channel will become less effective for flood protection in the future. At a minimum MI should

- project the loss of wetlands and comment how that will impact the level of flood protection on Lake St Martin and Lake Manitoba. an IR should request this analysis.
- We could not see a cost benefit analysis in what was provided.
 - A control structure on the Waterhen River would not help to mitigate the negative effects of the FRWCS on Lake St. Martin which is a long-term problem caused by the existing flood control system. This also highlights the complexity of the system which needs to be more comprehensively explained in the EIS.
 - Mike is right, including no process on mitigation, final language, AND changes from EIS with no public knowledge.
 - The proponent policing the affects down the road is not transparent governance.
 - What Mike is describing is called STAGED LICENSING. Effects on, and connected to Channel project
 - For those interested in reviewing the Pomeroy 2014 analysis, see: Pomeroy, J., Shook, K., Fang, X., Dumanski, S., Westbrook, C. and Brown, T., 2014 (May), Improving and Testing the Prairie Hydrological Model at Smith Creek Research Basin, Centre for Hydrology Report No. 14, Centre for Hydrology, University of Saskatchewan
<http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.705.3347&rep=rep1&type=pdf>
 - There is significant influence in asking together as multiple First Nations and groups. I would suggest we not submit these comments as individual Nations/groups, but rather as a collective TAG voice of concern.
 - Interesting suggestion Kirsten. In Manitoba regulatory proceedings the participants including First Nations often share content in their IRs, or discuss by phone etc. One result of this is that other participants indicate support for other IRs (same process on evidence, etc.). The multiplier works well.

TAG members with access to participant funding were reminded to submit for reimbursement, and were reminded to provide any feedback on the June 2-3, 2020 meeting notes, before July 10, 2020.

Director General Saxe extended thanks to attendees for their comments and participation.

MEETING ADJOURNED

The meeting adjourned on June 25, 2020 at approximately 4:30 p.m. after agreeing to reconvene on June 26, 2020 at 8:30 a.m.

June 26, 2020 (Day Two)

Attendees were welcomed back to the meeting at approximately 8:30 a.m. It was confirmed that representatives from the Agency and other federal government representatives, were attending the June 25-26, 2020 meeting (MI representatives were not in attendance).

6. WELCOME AND OVERVIEW OF THE JUNE 25, 2020 DISCUSSIONS

Barbara Pullishy, Director, Prairie Northern Region, Impact Assessment Agency of Canada

Barbara Pullishy welcomed attendees back to the meeting and commented on the June 25, 2020 discussions.

It was confirmed that after the June 25-26, 2020 TAG meeting:

- The technical insights received would be reviewed and merged where possible, to support new IRs being prepared
- The Agency team was gathering participant's feedback, to assist in gathering further information from the proponent
- A request could be sent to Infrastructure Canada for information on any funding agreements they may be working on, related to the area.

7. FISH AND FISH HABITAT AND FISHING – PRESENTATION AND DISCUSSION

Matthew Dairon, Project Manager, Impact Assessment Agency of Canada

Matthew Dairon reviewed the "Technical Review and Information Request Drafting - Fish and Fish Habitat and Fishing" section of the IAAC presentation titled, "Lake Manitoba and Lake St. Martin Outlet Channels Project".

Meeting Discussion

The Facilitator (F) welcomed questions and comments (Q/C) from participants, and responses (R) from the presenter (or other federal government representatives) which prompted the following:

R: We can confirm that all the "chat" comments submitted on June 25, 2020 have been captured, and will be included in the meeting notes.

Q/C: There are some references in the EIS to invasive species (e.g. spiny water flea, zebra mussels). The zebra mussels in Lake Winnipeg, likely transferred in by boats from other areas, have resulted in a change in the species in the lake. Although invasive species cannot be stopped, they can be slowed. Has the proponent considered in their construction and operations plans, how to prevent the spread of invasive species between the different water bodies?

R: The Agency has received a number of comments on this topic. We have drafted a IR requesting clarification on the proponent's mitigation measures, related to preventing the spread of invasive species and/or follow up plans on how they plan to actively manage this, once the project is operating. Is there anything else related, we should add?

Q/C: This has been discussed previously by the TAG. Participants, consultants and experts are

concerned about the environmental and construction mitigation plans. We are concerned about how “mitigation” will proceed. We have heard about the plans being prepared AFTER the license is issued. This is a critical concern - this proponent must not be issued a license federally or provincially, until all plans are done and reviewed.

R: The need for more mitigation and follow-up information, is the theme of a number of IRs.

Q/C: Our submission also indicates that mitigation plans should be created for all aspects of the project. There has been no effort to work with nations to integrate their knowledge, and experience regarding the impacts of the interim outlet channels. The proponent should be engaging with communities on the development of mitigation plans.

R: The Agency will consider building this into comments surrounding the mitigation plans. It is important to understand the mitigation plans and what residual effects still remain.

Q/C: As a hydrologist/water resource engineer, I have comments on pre-project flow versus post-project flows. The IR related to fish passage is critical, as further details are required. There are a number of areas that MI needs to respond to.

If another 2011-like flood event occurs, the flow through the narrows would increase from 25,000 cfs to 35,000 cfs. A flood during the spring could result in a substantial velocity increase at the narrows.

MI should be asked to comment on the impacts of removing the fish ladder. As indicated in the report from the Rural Municipality of Grahamdale, Dauphin River will be impacted due to the LSMOC, as it is parallel channel. Dauphin River flows may drop 43% in May, in extreme flood conditions. Medium flows would also drop significantly.

Q/C: The EIS may acknowledge concerns raised, but does not indicate how measures could be mitigated. Creating a plan after the project begins, cannot be sufficient for licensing. The proponent needs to be held accountable and must provide specific mitigation measures in response to concerns brought forward.

F: Issues related to fish pathways were included in IRs submitted in April 2020.

R: DFO representatives identified in their technical review of the EIS, that the proponent did not conduct hydraulic modeling of nearby rivers or the proposed system. The Agency has requested the proponent conduct hydraulic modeling to predict changes in Fairford River, Dauphin River and fishways, and to indicate the anticipated impacts on fish pathways and waterways.

Q/C: MI should not miss important aspects. The narrows have not been addressed.

R: The Agency will consider how to include the narrows in IRs going forward.

Q/C: The level of detail on mitigation in the EIS was almost non-existent. There was a well-crafted question from DFO in the April 2020 IR, under #37. It speaks to a critical

deficiency in the EIS, and how the proponent treated the channels as a form of habitat offsetting. DFO noted that the design of the outlet channels was not for fish habitat, and that the trapezoidal channel would not meet requirements of an offset plan. DFO asked the proponent to provide details related to mitigation and offsetting and to discuss habitat types affected by the project.

DFO also asked about the degree to which the offsetting would impact fish and fish habitat. The proponent responded with two short paragraphs – neither addressed the questions. Their non-response was disconcerting.

We understand that once the proponent's responses are received, the clock begins again. What is the Agency's policy on deficient responses? Can a question be sent back? The Agency's letter to the proponent references a workshop in late May 2020 with the proponent to outline the Agency's expectations regarding the level of detail that should be in an IR response.

R: We intend to get sufficient information to inform the EA. Part of the Agency's role is to work with the proponent, to ensure information is provided to move forward.

R: The Agency continues to work to identify key information gaps, and help the proponent understand the level of detail required. It can be conveyed to the proponent that some of the responses in the first set may not have "met the mark". It is the Agency's role to review their responses.

Q/C: The Agency has referenced options for crafting an IR related to the removal of the fish ladder. If the proponent maintains the position that the fish ladder removal was outside the scope of this project, it may be a challenge for the Agency to gain cooperation in obtaining further information. Issues related to the fish ladder could instead be raised in an IR, as cumulative effect or other measure. LSFN is keen to work with the Agency to explore how IRs could be crafted.

The hydraulic modeling assumes removal of the fish ladder, which would be devastating to the fishery. Has DFO been approached by the proponent on removal of the fish ladder?

R: DFO has been engaged in discussions with the proponent on issues related to the existing emergency channel, specifically the fish death that occurred, which was in violation of the Fisheries Act. An agreement was reached with the provincial Fisheries Branch, that a fishway was a reasonable option.

Q/C: The fishway is linked to a retroactive fisheries authorization to deal with "harm to fish or fish habitat", resulting from the construction and operation of the emergency outlet channel in 2011. Is there a connection between the fish passage and this project, which intends to replace the emergency outlet channel?

R: A recent study indicated that the current fishway, which has been there some time, is not as effective as it could be and has not been maintained. The mechanics of the new project and infrastructure were unclear to me, which raises the need for clarification on the

proponent's approach. My understanding is that they did an EIS, which I will review. The fishway was not about removing the ladder. There is a need for a fishway. This project is moving fast, but there are a lot of gaps. With the new infrastructure for controlling flow, how will the existing fishway be incorporated? We are in discussions with MI in terms of authorizations related to the prior and current projects, which has become complicated. The proponent's intent to incorporate a fishway into the new channel requires clarification.

R: The emergency channel was built in 2011 under emergency circumstances, and was operated in 2014 during rainfall events. As part of the emergency authorization, the proponent was required to provide compensation (referenced as "offsetting" in 2014.) This was the basis of DFO's discussions with MI on the fishway. There was a possibility that the emergency channel could be operated until the permanent channels are built, which the proponent would require authorization for. Once the details have been clarified, DFO (and the province) will be required to go through a consultation process to seek input on the fishway. Clarification is needed on whether the fishway is part of the CEAA 2012 project. Through either process, it is hoped that a new fishway will be built.

Q/C: The feedback from DFO on the parallel processes, is appreciated. We are waiting to hear back from MI on their hydraulic model. They may respond with a project redesign that could have negative implications for fish.

Typically, EAs are undertaken with significantly more detail. Many proponents cannot finalize all mitigation plans until after an EA, but there at least needs to be conceptual level details for a decision maker to be able to assess the likelihood of a plan's effectiveness. The LSFN requires an understanding of the project's mitigation measures, and may propose the Crown take a precautionary approach, by assuming the mitigation measures are not effective and that the impacts on treaty rights would be severe.

Q/C: We are concerned about what will happen to Limestone Bay (on the north basin of Lake Winnipeg). The area has been closed to fishing to everyone, including our band membership, for a number of years. It is a highly protected area for walleye spawning. The closure is due to water levels, potential contaminants, and impacts to the spawning area. We tried to build a safe haven cabin in the area, but were denied.

R: *The Agency has crafted IRs about Lake Winnipeg, but not specifically. We can review the IRs to see how we can incorporate Limestone Bay into our IRs.*

Q/C: After reviewing modelling from the 2011 flood event, Manitoba Hydro reported that Lake Winnipeg levels increased 70 mm at the peak of the flood in June 2011. How this translates to the land is significant. Lake Winnipeg has highly erosive lake shores. When winds pick up, the lake can be elevated easily. An additional 70 mm increases the potential for erosion, sedimentation, destruction of shoreline habitat, and loss of land around the lake. MI needs to comment on how increased levels on Lake Winnipeg translates to the lands.

- Q/C: The EIS did not acknowledge issues related to fish in the Sturgeon Bay area. The assessment area needs to be expanded to include Sturgeon Bay, particularly the east side. Consideration is needed on cumulative effects, Aboriginal treaty rights and activities impacting Fisher River fishers, including increased fish net mesh size, and the quota buy-back program, which have significant impacts on First Nations. A 2.75-inch increase in the water level, combined with strong northwest winds (which are not uncommon), could result in a five-foot water level increase. The additional water would be causing flooding in Fisher River and Fisher River Cree Nation.
- R: *An IR was included in the April 2020 package, regarding debris and debris impacts. The Sturgeon Bay area could be explored in the next IR package.*
- R: *The Agency is developing an IR focussed on a study area in Lake Winnipeg. The information TAG has provided will be helpful in informing the areas the Agency would like the proponent to comment on.*
- Q/C: Impacts from the operation of the emergency outlet channel in 2011 and 2014 were significant. Fishing seasons were expanded and quotas were not met. They have concerns that if the EOC is operated regularly, there will be ongoing issues with the flow. They are concerned about the size and location of pickerel and white fish populations and their access to traditional spawning grounds, which would even further impact the fish in Lake Winnipeg. It is hoped that the Agency is preparing an IR specific to this, as the information in the EIS is inadequate. DFO is engaged in conv with the prop on certain aspects of the construction. It is uncertain whether anyone from DFO is exploring potential impacts to flow?
- R: *We received similar concerns from a number of Indigenous groups. We have been working on an IR on potential impacts of the changes to flow on fish and fish habitat, including spawning areas.*
- Q/C: Yesterday someone asked if there were any opportunities to review the IR before it is submitted to the proponent, which I think the answer was “no”. This is a significant concern – if there is any way to ensure the IR highlights our concerns it would be helpful. Also, DFO’s comments are welcomed.
- F: Once the IR is prepared and sent to the proponent it is posted on the registry and available for access.
- R: *We have similar concerns about the impacts on fish and fish habitat. This is a valid point, and was incorporated in one of the IRs sent earlier.*
- Q/C: First Nations groups, including MCN, Peguis, and Fisher River Cree Nation, reported that in 2011 and 2014 the fishery was disrupted due to flood events. They did not find fish in Lake Winnipeg in the traditional areas. They also acknowledged post-flood debris which impacted their nets, and reported that sediment obstructed spawning habits.

Question #IAAC-12 b) requested feedback from the proponent: “Complete an assessment of how sediment quality may interact with the environment and potential pathways of effects to fish and fish habitat and current use by Indigenous peoples”.

Page 4 of MI’s June 15, 2020 response, indicates, “..multiple Indigenous groups expressed concern that the channels would lead to an increase in sediment and debris in surface waters downstream of the Project”, and that “These concerns were considered in the assessment of the potential effects of sediment and debris on fish habitat, and the potential direct effects of sediment and debris on fish health and mortality”. MI concluded that “there are no predicted effects to traditionally harvested fish species, and consequently no change in availability of traditional resources from current use through effect pathways identified in the Traditional Land and Resource Use (TLRU) assessment”. They acknowledged concerns expressed by First Nations, and the effects of fish health and mortality. The project’s environmental management plan should be developed in discussion with Indigenous groups.

Groups of fishers reported effects, which MI suggests are negligible. The evidence they based their conclusions on, is insufficient. If they managed to model the outflow plumes they would see hydrodynamically, how sediment is transported and how water quality would differ. They are suggesting that as the volume of water does not change, there will be no changes. Their response reflects a clear absence of modelling.

R: The responses from MI have not all been assessed yet, but will be thoroughly reviewed and discussed. The Agency submitted an IR to MI in the April 2020 package, specifically related to sediment quality and sediment quality modelling. Based on TAG’s June 25, 2020 discussion, we have started drafting an IR on modelling of sediment plumes at the outlet of the channels.

Q/C: Will we have an opportunity to see how the IR is phrased before it is sent to MI?

R: The Agency is drafting the IRs and will not be submitting them to TAG prior to sending them to MI.

F: The Agency may reach out to some TAG members for further input when developing IRs.

Q/C: I welcome the opportunity to provide input into the IRs, to ensure that the questions asked are getting to the crux of the issues.

R: The Agency is incorporating additional information into the next batch of IRs, as it is received. It would be helpful to flush out details on the IRs now, if possible. The IRs sent to the proponent (and their responses) are currently accessible on the registry website. A formal review could occur after the second IR package is submitted.

R: The intent is to complete the next IRs in the week ahead. We may be able to reach out on an individual basis to TAG members, specifically on points we may need further details on. There will not be an opportunity for the TAG to reconvene before the next IRs are sent.

- R: The Agency hopes to have the IRs submitted to MI within a week.*
- R: If anything has not covered at this meeting, please provide it over the weekend or by Monday. The team is thoroughly reviewing comments with the intent to incorporate them accordingly.*
- R: Any operations that are harmful to fish are infractions. This needs to be assessed at the appropriate level.*
- R: Many of the issues being raised by TAG, were considered in DFO's IRs, which sought feedback for the fishway authorization process. Concerns have been heard regarding MI not providing appropriate information. In the event that impacts cannot be avoided, they can be mitigated. (DFO's IRs may not be accessible through the registry website.)*
- As there may be no way to augment spring flows in Birch Creek, MI would need to assess the impacts, and provide offsetting to balance them. MI maintains the position that the channels will be offsetting, which DFO does not agree with. It would be helpful for TAG to see the offsetting options, to propose how to balance those impacts.*
- DFO has heard of some significant debris impacts during the emergency channel operation during the 2011 flood and again in 2014. The flow went through Buffalo Creek and impacted habitat – beaver dams, etc. It is important to ensure channels are stabilized in terms of sediment control.*
- Q/C:** If MI depressurizes the wells and lowers the aquifer near Birch Creek and also reduces water into the creek, there will be no water left for fish to spawn in.
- R: DFO's IRs may not be accessible on the registry website. Efforts will be made to ensure they are shared with the TAG (either within or outside the registry).*
- F:** Who will oversee and enforce any mitigation measures? Who evaluates the effectiveness of those measures?
- R: The Agency has the ability to enforce what is outlined in the condition statement. The enforcement group can see what is undertaken. There are other areas that can be committed to that are not referenced in the condition statements. Consultation will be incorporated in the follow up process.*
- R: The Agency's enforcement team has the authority to verify compliance with the mitigation measures included in the decision statement. Verifying effectiveness with mitigation measures can be conducted by the proponent. The Agency can validate whether this is satisfactory, and can verify this with other authorities, including DFO.*
- Q/C:** Where will the funding come from for First Nations traditional monitors? Will CEAA ensure that MI or the province provides funding for long term monitoring for First Nations

(with trained environmental monitors)? The National Energy Board (NEB) acknowledges Aboriginal traditional monitoring as a condition, and required Enbridge to provide access to long term funding for First Nations for monitoring.

Q/C: A formal process is needed to ensure there is a legislated process for Indigenous oversight. This could include comprehensive capacity funding for involvement to be accessible or possible for Indigenous communities in the area. I have not seen effects on traditional land and resource use.

R: *Following up on mitigation is part of this process. I will clarify whether MI can be directed to ensure monitoring (with Indigenous monitors), with the resources to support it, is part of this process.*

R: *We can include groups in consultation processes, in the development of follow-up processes and monitoring programs, and during the implementation of monitoring activities. Regarding heritage resources, if there is a finding, we can ensure there is presence of Indigenous representative.*

The Agency cannot require financial support in the conditions (this can be confirmed). Under general conditions, the proponent could be required to allow groups to contribute in a certain way. The proponent could be required to provide non-financial support (e.g. technical support, etc.). An example of wording for such a condition, can be considered by the Agency.

Q/C: The NEB has authority to ensure Enbridge includes Indigenous monitors. Assurances are needed that we can put long term monitoring programs in place. We have at least two years current monitoring experience on major projects. Our community will write to the Minister asking why CEAA will not force MI to provide funding for long term traditional monitoring.

R: *There are some things that can be required of the proponent. The Agency wants to figure out how to support an Indigenous monitoring program. More thorough discussions are needed with the federal family, to determine what is required. A future TAG meeting could include a discussion with representatives from the Agency, who are involved in follow-up programs and can comment on Indigenous monitoring.*

Q/C: Part of IRTC's concerns around monitoring and oversight, is based on the 22 km right of way, and the current work on the access road. We wrote to the Enforcement Branch of CEAA notifying that nothing was being done. How possible will it be to have a third party to undertake monitoring and oversight?

R: *There may be limitations to the Agency's ability to direct who will do the monitoring.*

Q/C: There is a lack of detail on the channels. We understand there will be jetties and groins at the inlet, and that other structures will be used at the LSMOC. Rock groins will be used to drop elevations. There is minimal detail provided on the transitions proposed into Lake

St. Martin and Lake Winnipeg. The impacts cannot be evaluated until a more detailed engineering schematic is provided.

Q/C: Even with engineering drawings on the different types of structures they may put in, we know nothing about drifts, and how currents are working in the area now. There has been no hydraulic monitoring to indicate how the channels are working. There is insufficient modelling on currents, flows, impacts of water quality and how it will change. Modelling will help to assess changes these channels will cause to the environment.

Q/C: Concerns have been raised about the wording in MI's documentation. For example, MI indicated "minimal effects" anticipated to fish and fish habitat. This should be defined differently, as more is needed to describe impacts.

R: *We have heard the requests for more definitive terms, and hope the concerns are addressed through the next round of IRs.*

Chat Window Comments

During this section of the discussion, the following comments (unedited) were provided in the videoconference chat window:

- It could be argued that Lake Winnipeg is on a long decline due to invasive species, Zebra Mussels. Has the proponent accounted for any interactions between the proposed project and invasive species? Positive or negative?
- Thank you. Stopping the spread of invasive species in all the impacted water bodies by the proponent is important.
- That is exactly what they are planning on doing. Getting a mitigation plan thought up once the license and project is underway.
- MCN would add that the Nations should be actively involved in developing the mitigation plans.
- The IR related to fish passage needs further direction to MI. the fish passage through the narrows will be significantly impacted. Spring flows for a 2011 event will increase from 25,000 cubic feet per second to approximately 35,000 cubic feet per second (cfs) pre-project versus post-project. also removal of the Fairford fish ladder is of concern. Dauphin River spring flows during spring channel operations will generally be 43% lower for an extreme flood.
- Yes, however it would be helpful if the public direction to the proponent requires them to answer the information requests fully.
- High priority for NHCN - Limestone Bay.
- The proposed project is not an emergency channel. It will operate all year and have water flow all year.
- Fisher River Cree Nation raised the issue several times regarding the issue of debris and sediment in their nets in their fishing grounds north of Sturgeon Bay. The EIS does not consider impacts to fish beyond a few hundred meters into Sturgeon Bay.
- The proponent needs to extend assessment further north in Sturgeon Bay and around Saskatchewan Point east to Fisher River Cree Nations' Fish Station to include impacts on the traditional fishing grounds of Fisher River Cree Nation (FRCN) commercial and sustenance fishers. This is also necessary in order to conduct a valid cumulative effects assessment on Fisher River Cree Nation's aboriginal and treaty rights and economic conditions.

- MCN is very concerned about potential changes to flow in Lake Winnipeg. The Emergency Outlet Channel operation in 2011 and 2014 had huge impacts on the flow causing the traditional fishing areas to be affected. Knowledge collected from MCN fishers shows that the fish had moved to different areas of the lake, and they had to fish much longer to reach their quotas.
- The EIS does not adequately address how operation of the permanent outlet channels will impact the flows and regular habitat of fish. Our EIS response details these concerns.
- Does DFO have any comments on the potential impacts to flow?
- Dauphin River Fishermen expressed same concerns
- We also heard the same from Kinonjeoshtegon members
- Ian - can you please re-state the IR # again? I haven't had a chance to go through the Proponent's IR responses yet, but I'm concerned that we are seeing a pattern emerge here. Can you please remind us what the number of that IR again?
- IAAC - 12 second question/request in that section
- Can IAAC please post a deadline for final input on IR package #2?
- It is LSFN's expectations that all IRs in LSFN's written submissions and verbal submissions June 2-3, 25-26 will be included in this or next round of IRs to the Proponent. Thanks.
- Who will oversee and enforce mitigation measures?
- Are DFO's IRs available?
- And will there be a follow up program set up to evaluate effectiveness of those mitigations on enviro, social and cultural impacts?
- Will there be a formalized process for Indigenous involvement in the FUP/enforcement approaches?
- Many of the communities are developing Guardians programs that would be well positioned to contribute to monitoring - but additional funding would be required to add this to task to their work.
- No details in EIS on potential impacts of groynes and jetties proposed for excavated outlet into Sturgeon Bay. Development of these types of structures by property owners on L Winnipeg in the past have resulted in changes in currents and erosion of nearby properties. Perhaps Steve or Ian can provide comments on potential impacts of these structures in Sturgeon Bay. I believe Steve mentioned yesterday the potential impacts of jetties at Watchorn Bay.
- If capacity funding cannot be enforced and expected of MI - then the Crown needs to step up and provide this as part of their DTC Sect 35.
- There is precedent for this across the country; not new.
- I agree as well, the proponent shouldn't be the sole authority monitoring the long term effects.

8. LAND – PRESENTATION AND DISCUSSION

Matthew Dairon, Project Manager, Impact Assessment Agency of Canada

Matthew Dairon reviewed the “Technical Review and Information Request Drafting - Land” section of the IAAC presentation titled, “Lake Manitoba and Lake St. Martin Outlet Channels Project”.

Meeting Discussion

The Facilitator (F) welcomed questions and comments (Q/C) from participants, and responses (R) from the presenter (or other federal government representatives) which prompted the following:

Q/C: Based on CEAA-12, Subsection 5.1c) the EIS is missing baseline data on health and socio-economic conditions, physical and cultural heritage, and the current use of lands and resources for traditional purposes. These are closely related to assessing impacts on treaty rights. LSFN heard at the last meeting, that MI will not provide funds to LSFN to undertake a socio-economic baseline assessment. The next IRs being drafted should include a request that MI work collaboratively with LSFN in the development of a socio-economic baseline study.

Rights based harvesting will be impacted by the construction of these large channels within treaty lands. LSFN asked MI to work with them on this type of study over 18 months ago, and offered to help them understand what the community was dealing with and how the risks associated with the project would interact with existing conditions. An IR related to socio-economic conditions is needed. There have been extensive efforts by LSFN to get MI to work with the community to ensure they have information in a timely manner.

R: *The IRs the Agency is currently focussed on recognize gaps in baseline data related to health, socio-economic conditions, and sites of importance. The next IRs will direct the proponent to gather information.*

R: *Concerns have been heard regarding noticeably insufficient data on Indigenous health, socio-economic conditions, follow up and monitoring, and engagement with Indigenous groups on how this will occur. Concerns have also been heard on impacts of this project, on local economies and industries of Indigenous peoples, including fisheries and tourism. Multiple submissions were received on water quality, impacts of the project on drinking water, increased nutrient runoff, and ground water.*

R: *MI has been asked to provide feedback on the IRs. A collaborative approach to responding has been encouraged, which considers a number of views.*

Q/C: We met last year in Winnipeg with representatives from CEAA and the province. Citizens who lose their economic prosperity (e.g. fishermen, trappers, those who live off the land) will be affected by this project. Any fisher that loses their livelihood, has been offered \$20,000 for their regulatory license, which will only pay off their debts and will leave them unable to work. MI has not indicated they will compensate anyone for anything.

The province and MI need to come up with a sustainability plan, as fisheries will be lost because of this project. The NEB has forced Enbridge to ensure they follow traditional monitoring, and a sustainability plan. They are ensuring that the province brings forward a sustainable plan for those who lose their livelihood in their communities.

LSFN uses Lake St. Martin for land-based programming. If the lake is destroyed, their programming is destroyed. MI needs to present a sustainable plan, which enforcement staff can ensure is followed. Can the Agency ensure a sustainable plan will come out of all

these discussions?

R: We are trying to mitigate these effects from happening. Through the IR process, we can understand the residual effects. If the project goes through, there can be ways to ensure residual effects are further mitigated or promptly addressed.

R: We are seeking more information on MI's commitment to mitigation and compensation. The Agency is seeking more information, as concerns have been received at this meeting and previously, that information from MI is lacking.

R: Concerns have been raised related to sustainability. Receiving further information will help to better understand the long term effects.

R: Once the plan is sufficiently developed, we will still need information, as part of the plan will cover mitigation measures. The proponent could be asked to update the follow up program. if there is a need to modify or include additional measures, they can be included. there will be requirements from the prop throughout the project life.

Q/C: Historically for many projects in Manitoba, once the consultation process is done and permits are issued, there has been no follow-up or monitoring. We typically never hear from the province or proponent again. This project may be the biggest disaster the province has ever brought forward, and may be more about turning the lake into a reservoir, than flood mitigation.

R: The Agency has an enforcement group, which is limited to legally enforcing conditions set on the project.

Q/C: We are undertaking a traditional environmental study, which is focussing on what is occurring. The proponent does not acknowledge that the majority of people, nations and communities impacted by this project, are Indigenous. Nothing in the EIS, recognized the complex interplay between social, physical and spiritual aspects of the area.

The complex understanding of the social determinants of health must be considered when looking at a project of this scope. The proponent, CEAA and others should recognize that the impacts are not just that “the flow will change” or that “the fish won’t spawn”. The impacts are that peoples’ livelihood, tradition and culture will be destroyed. Similar impacts were experienced with Manitoba Hydro. We need to find a different way to approach this.

R: The Agency has heard the concerns about the proponent's lack of engagement to date. Through further IRs, the Agency hopes to fill the information gaps, to help inform the Minister's decision. We have a legal duty to consult.

F: Gravesites adjacent to the shore have been recognized as being protected, although the increased water levels will flood the gravesites.

June 26, 2020 (Day Two) – Technical Advisory Group Meeting

- R: An IR is being developed that focusses on gravesites and traditional sites.*
- R: The Agency is asking questions on how studies are being undertaken and how Indigenous groups are being incorporated in IR responses. The IRs will address a number of issues, and gather more information on traditional sites.*
- R: The Agency has asked that information provided not be specific to detailed site locations, so we do not jeopardize sensitive information related to the sites.*
- Q/C: Can we get a list of all the field work that MI plans to do this summer? During the June 2-3, 2020 TAG meeting one of the proponent's representatives, mentioned field worked anticipated during the coming summer.
- R: To my knowledge, MI has not informed the Agency of any work they plan to do.*
- R: We will seek to get some clarity on any ongoing work. A number of IRs have asked for further clarity with respect to mitigation monitoring.*
- Q/C: There are wetlands and lakes – Ground water levels are critical for the habitat, Ground water and geology and RAA s coincide. They are large and move all the way to Peguis. That is the outline of the carbonate aquifer in this area. When I look at soil, vegetation, wildlife, RAAs they are much smaller. If you lowered the groundwater level you would change the wetlands, streams and lakes that depend on it for their levels. By changing that level, you impact those systems. I am puzzled that the vegetation and wildlife could be affected by this. The boundaries do not conform to what the hydrogeologists say would be affected. The hydrogeologists do not say how affected the groundwater would be; there is no model for that. This leaves wildlife without boundaries.
- There should be conformance to geology and hydrogeology or groundwater boundaries. If people see the effects are that widespread, vegetation should be looking at. If waters fall the wildlife will be affected. The boundaries are tiny compared to ¼ of what the groundwater boundaries would be. This is concerning because the assessment is missing an area that would normally be assessed. The areas would not be included in those accommodations. There is a non-alignment of boundaries.
- R: We can look at how the ground water assessment factors into this.*
- Q/C: There is a lack of a full assessment of the surface water and groundwater. How does this impact the other assessment disciplines? One of the impacts may be pieces of terrestrial land missing from the assessment.
- Q/C: I am suspicious about different disciplines working as silos. Previously, all the disciplines worked together, particularly on defining RAAs and Local Assessment Areas (LAAs), and communicated in terms of how they would affect each other. In an EIS, the disciplines need to be talking.

- R: We have been looking at how to bridge gaps between the difference disciplines.*
- Q/C: The EIS guidelines contain some clear language about what needs to be done under Section 5.1c). Has MI committed to coming back with responses quickly? We need to take time to ensure information is gathered and to ensure we have information about rights, etc.*
- R: Your review of this part of the guidelines is appreciated. We need information to inform the Minister's decision.*
- R: We will be submitting IRs to get the information needed from the proponent for the EA. The Agency cannot dictate the pace at which they respond, but will ensure they understand the information requested.*
- Q/C: It would take three to six months for LSFN to complete a socio-economic baseline study, and a traditional land use study. To provide that information, the proponent would need to work with LSFN. That information would not be available until this fall. The EIS is incomplete in many areas.*
- LSFN is not prepared to start a traditional land use study until there is a clear understanding of the project and its anticipated impacts. Hydraulic modeling is needed, including on the narrows in the middle of the lake. Then LSFN could start its traditional use study.
- MI has indicated to LSFN their intent to wrap up consultations this fall, and may have communicated their expectation to the Agency, for completion of an EA within 2020.
- R: Some information still needs to be provided before any further discussions can occur. We have heard the request for more details and a better sense of what the project is, before TAG members can comment on the impacts of the project.*
- Q/C: The land use studies in 2012 were never realized. The Agency has asked the proponent to describe the baseline prior the flood.*
- When traditional land use studies are needed, the EIS guidelines should come into play, and should be supported and funded. Nations flooded or affected by the channel should be supported. It is important to note that the Golder Report did not include traditional land use studies.
- R: We would like to know what the conditions were prior to 2011 flood. What MI is using as baseline, may be current conditions not the pre-flood. Cumulative effects are critical. Indigenous communities are already being affected, which should be considered.*
- Q/C: On behalf of the three First Nations I am working with (Ian Halkett) we have questions on nutrients, algae and their impacts on human health:*
- The channels will move flood waters that are high in nutrients, into Lake Winnipeg,

- faster than they currently move from the Portage Diversion
- The algae blooms are more common in Lake Winnipeg and are increasing, particularly in the north basin
- Blue-green algae is taking over in the algae blooms, and releasing harmful cyanotoxins
- A community is looking at the blue-green algae in Split Lake and how it may affect intake at the water treatment plant
- The algae is visible on the shore lines; it is important to consider how the project will impact toxins being released from the algae, and what it will do to water quality, human health and animal health
- An IR could be drafted requesting MI to look at the algae structures in Lake Winnipeg and how they see those structures being effected by the channels project.

R: The comments provided will help draft an IR, particularly the information on the linkage between algae and changing water quality. Similar concerns have been submitted that the increased nutrient runoff will increase blue-green algae, which will release toxins and impact drinking water. We have heard requests that there needs to be more information on how toxins affect human health and specifically drinking water.

Q/C: The IR could ask MI to explain: the current transport time for flood waters through Portage Diversion, and Dauphin River to Lake Winnipeg; and the change in transport time expected when the channels are operating.

As the water will be moving faster, the nutrients may not be sequestered by the sediment, and may be flushed faster into Lake Winnipeg, which would encourage algae growth into Lake Winnipeg rather than Lake Manitoba. This can be assessed with hydrodynamics.

There may be something else in effect, such as diminishing levels of nitrates, which supports blue-green algae, and draws nitrogen from the air/water. The toxins then become more prevalent in the water.

R: Based on the submissions received, we need further information on interrelated affects.

Q/C: It is important to also consider the interrelated effects to animals and wildlife, especially the animals that might frequent the areas that are affected by the channel discharges. Impacts on human health, recreational water and drinking water need to be considered.

Q/C: What is the Agency's approach to species reclassified from "under schedule" to "under study", through the Species-At-Risk Act (SARA), over the life of the project? What can we do to protect species that were "under study" when the EIS was prepared, but have now been reclassified as "under schedule"? There are a number of species in this situation.

R: We can ask Environment Canada for additional information, and can confirm whether species have been added to the "under schedule" list, since the EIS was submitted.

R: The first set of IRs asked questions about identified species at risk. We have not looked at the responses provided yet. Regarding the species that may have changed, or will change

as the project operates, we will need to look at this in more detail.

Q/C: Proponents generally do not want to talk about considering species at risk, throughout the life of the project. This whole area is very sensitive.

R: *The Canadian Wildlife Service (CWS) shared information with MI on species in the process of being listed as “under schedule”, including the red-headed woodpecker. We recognize it can take a long time to get some species listed, and will inform the proponent if we anticipate a species being listed.*

We have submitted IRs to try to get MI to elaborate on their monitoring plans, and their use of adaptive management. If issues arise that specifically impact a species at risk (e.g. cyanotoxins), we would seek management plans with a component built in to accommodate the anticipated impacts. CWS will work with the Agency on the next IR package.

Q/C: The level of detail received related to Canadian Wildlife Service is appreciated.

R: *We can see if there are other areas that need to be explored for the next IR package.*

Q/C: The meeting’s land-based discussion included comments on the absence of a complete project description. Critical foundational information related to the project, is lacking. For example, a proper scoping of the value components is vital for any EA; information is lacking on species that may be sensitive to affects that might occur; the land area affected by the channel was not considered; hydrology and how it will affect wetlands should have been explained; and, vegetation components should have been reported on separately.

Consequently, a number of the assessments were based on incomplete information. There was no population modelling, and an absence of well-scoped vegetation components, which may be the result of insufficient engagement. The lack of information likely led to poorly-defined effects on wildlife. Traditional land and resource use information, was likely based on wildlife and vegetation components. Vegetation should have been more finely defined, and should have included a component of hydrological modelling, and groundwater level analysis to identify effect on wetlands, and then riparian areas. traditional land. Throughout the process, there was very little measured. when I hear discussions about monitoring,

if you do not have a quantifiable baseline, you have not measured what’s present now, or historically, and you have not done any predictive modeling, you have not even identified what you will measure. I lack confidence in the ability of the proponent to monitor as a condition. Presently, the proponent does not understand the quantities of the things that are present. I am concerned that there is an inadequate foundation for the process. The CWS has concerns for monitoring for SAR that are rare, that are being impacted, will require an investment in time and money. Currently we are not even monitoring for species that are of greatest concern.

- R: Is your concern that the proponent focussed on representative species in the study area to inform their assessment, without concentrating on some critical species?*
- Q/C: For vegetation, what the proponent tried to cover off with their single report, was the effects on vegetation present in the study areas. By pooling vegetation together in one assessment, it deleted the things that are most effected. It is typical to split out species. Wetlands and their functions, should be split out as individual value components. The same applies for wildlife. For example, there should be a separate value component for deer, aquatic mammals etc. and there should be an assessment for each. Through this approach, the species most impacted by changing water levels or vegetation would show up as being subjected to the most significant effects.*
- R: We are working on IRs and how we can take into consideration, the importance of assessing the effects on species at risk.*
- R: The first IR package focussed on species at risk and migratory birds. The way the vegetation value component was assessed, made it was difficult to see the wildlife sections.*
- Q/C: The inability to differentiate amongst different vegetation types and effects on wetlands and riparian areas, obscures the fact that when you look at the effects on different wildlife species, you are looking at the habitat associated with those species. Without a good assessment of the different vegetation communities you cannot build upwards to determine that the “wildlife habitat is okay”. Habitat was the only thing dealt with in terms of evaluating the effects of the project on wildlife. There are other things missing, including changes in access, etc. that can impact reproductive rates and the likelihood of mortality. A number of factors are important to species, beyond the vegetation communities.*

Chat Window Comments

During this section of the discussion, the following comments (unedited) were provided in the videoconference chat window:

- All these concerns are important. Additional concerns would be impacts to traditional cabins and docks, database of confirmed gravesites which may be subject to inundation. Currently, NHCN has confirmed gravesites at Playgreen Lake adjacent to the shore which are currently protected. An increase in lake levels will result in flooding of these confirmed gravesites.
- Increasingly there is an understanding of the full context of social determinants of health in many sectors. MCN does not see this understanding reflected in the EIS. For Indigenous communities the link between physical, social and spiritual health are intrinsically linked. While these considerations may fall outside a traditional environmental study, MCN believes there is an obligation to respect the holistic approach to health as reflected in United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) and the Truth and Reconciliation Commission (TRC) recommendations.
- Do we have a list from MI of the field work they are conducting this summer for lands, water, animals, birds etc.?

- Complete lack of understanding of systems and inter-connected nature of ecological and social/cultural health impacts in the EIS.
- Nation-specific studies, including baseline studies, need to be undertaken for Indigenous socio-economic conditions, health, cultural heritage and current use. LSFN requests that these requirements should be incorporated into IR package #2.
- The EIS Guidelines, page 10, state: The assessment of environmental effects on Aboriginal peoples, pursuant to paragraph 5(1)(c) of CEAA 2012, will undergo the same rigor and type of assessment as any other value component (VC) (including setting of spatial and temporal boundaries, identification and analysis of effects, identification of mitigation measures, determination of residual effects, identification and a clear explanation of the methodology used for assessing the significance of residual effects and assessment of cumulative effects).
- The proponent will consider the use of both primary and secondary sources of information regarding baseline information, changes to the environment and the corresponding effect on health, socio- economics, physical and cultural heritage and the current use of lands and resources for traditional purposes. Primary sources of information include traditional land use studies, socio-economic studies, heritage surveys, cultural impact assessments or other relevant studies conducted specifically for the project and its EIS. It is recommended that potentially affected Indigenous groups are a source of this information and that the determination of information requirements includes Indigenous groups.
- Good to hear LSFN comments about the steps for their land use study. He is correct, this takes time and respect by all parties for the nation to undertake their study.
- Our experience with traditional land studies with respect to a Crown project especially when there are EIS Guidelines specific to Indigenous Knowledge and clear potential impacts to a nation - provide the nation information and data that will be used going forward. Including for monitoring the potential project. The hope would be the fulfillment of the EIS Guidelines and all policy from CEAA and the Agency regarding traditional knowledge.
- The impacts to Aboriginal rights clearly may go beyond the current project area and siloed species or water areas as identified in the EIS. The regulator cannot limit traditional land studies to the proponent's project areas. These studies are overdue since the flood - and the hope would be that the traditional lands studies re the Channel are the beginning of intensive traditional lands studies by the affected First Nations, especially those close to the project site.
- It may be time for the new Agency to consider how to assess initially the self-assessment scope which may in fact scope out impacts, Aboriginal exercise of rights, aquifer and drainage scope, and a range of effects on species.
- As discussed first week of June and again this week, the proponent needs to provide information which toxins, nutrients, and range of chemicals / pollution will come into the Channel from Saskatchewan, Lake of the Prairies, down the Portage Diversion and into the sequence of lakes and Channel. The EIS is weak - as if there is no water flowing into these lakes.
- Does the Agency team consider that the EIS content re SARA species accommodate that pattern of future SARA species listing over the list of the project? And does the Agency team know whether the proponent has paid any attention in preparing the EIS to the species that were under review for schedule listing under SARA - as there are about a dozen new Manitoba located SARA species now under schedule?

- Not enough species as valued component - and they should be in relation to the type of ecosystem./land type etc.
- Manitoba switched from EIS Guidelines, based on public review comments before finalizing for about three decades. Public process. Then a switch to a scoping document for projects that triggers our provincial act and potential hearings was put in place. BUT that was not done for this project. First exception that we can identify.
- Reminder - the obvious is that this is also a Manitoba Environment Act review process with same EIS being used.
- Monitoring with First Nation participation is a federal requirement for two projects in Manitoba. One pipeline project and one transmission line (international) project. Baseline problems but much more baseline in each of these than in Channel EIS.
- MI would not answer questions about plant species in open houses. Not about medicinal plants.....wetland plants, seemed not to think that plants relevant for EIS at all.
- Silos do not link in ecosystem, symbiosis, tradition land use, water sources, most of these species as important elements for EIS purpose - hence disconnected and insufficient.
- For IAAC: As most of the representatives of Indigenous Nations have been saying for the past few days, the problems with the project design, and the EIS, are so extensive and foundational that it is assumed that Manitoba might need several months to come back with adequate responses to the next set of IRs. Does the Agency agree? And if so, will the Agency formally advise Manitoba to revise their expectations related to project approval timelines, slow down their process and take the necessary time to adequately provide the information needs to satisfy requirements of CEAA 2012 and to inform the Crown's legal duty to consult and accommodate?
- That same time is needed by affected communities for lands plans.

9. CUMULATIVE EFFECTS – PRESENTATION AND DISCUSSION

Matthew Dairon, Project Manager, Impact Assessment Agency of Canada

Matthew Dairon reviewed the “Technical Review and Information Request Drafting – Cumulative Effects” section of the IAAC presentation titled, “Lake Manitoba and Lake St. Martin Outlet Channels Project”.

Meeting Discussion

The Facilitator (F) welcomed questions and comments (Q/C) from participants, and responses (R) from the presenter (or other federal government representatives) which prompted the following:

Q/C: There are over 150 licensed fishers in Fisher River. The impacts on fishing patterns are cumulative, and go beyond sediment and debris. The EIS acknowledged impacts of moose hunting closures, in two key game hunting areas. The 2.75” increase in water level will impact communities and erode camps along the shores of Fisher Bay. Impacts of the project on FRCN’s economy, Aboriginal treaty rights, health and welfare, need to be considered.

R: *The current impact on the FRCN’s ability to practice their rights could be considered under “cumulative effects”. We are working on IRs in this area, and incorporating comments related to existing effects and how the project might further those effects.*

Q/C: The EIS mentioned the land required for creating the channels. There will be an access road and a power structure coming in for the project. How are these temporary sites being acknowledged? The cumulative effects should recognize that the average water elevation increase in Lake Winnipeg will be minor (e.g. 70 mm), and that the channels will always operate. Many communities are already concerned about the fisheries on Lake St. Martin and Lake Winnipeg.

The earlier presentation mentioned water structures, but only referred to the Portage Diversion and Lake Winnipeg. All water control infrastructures that impact water levels in all three water bodies (i.e. Lake Winnipeg, Lake Manitoba and Lake St. Martin) should be included.

MI has not provided long-term information related to on Lake Winnipeg water levels. It seems that Lake Winnipeg is just a retention pond for Manitoba Hydro. We heard from DFO that MI was given authorization to operate the EOCs twice, and that the impacts on fish, water and fish habitat still remain. If these new channels are built, it is understood that they would decommission the EOCs. Is this addressed in the cumulative assessment?

Q/C: Rather than providing relevant data in the EA, the proponent has insufficiently indicated, “we used professional judgement”.

R: *The proponent has been directed to the cumulative effects in the EIS.*

Q/C: We do not know what this project looks like. There are many holes in some critically important components of this project – like water.

When we talk about rights, it is important to understand the historical context. Within the part of the treaty area, where nations historically exercised their rights:

- There has been a loss of access to the use to the land
- Nations’ ability to derive wealth and benefit from the lands they were promised they could use, has been diminished
- Increased activities on the land and identified in the project (including agriculture forestry, railway, transmission lines and other non-Indigenous initiated activities) will leave even less territory on which nations can find meaningful opportunity to exercise their rights.

Without this information, it is not possible to effectively assess the impacts to rights.

Discussions have ensued on flood management structures, including Portage Diversion, and the emergency outlet channel. The effects of additional structures have not been mentioned, including the Bipole Transmission Project, roads, and forestry activities. Pollutants and runoffs into the water system should be considered as cumulative effects, as part of the project.

TAG discussed the removal of the fish ladder, which must be considered in a cumulative effects settlement. The fishway should be included in the RAA, as it affects, limits or restricts the exercise of rights, and will interact with other pathways. A cumulative effects assessment could be discussed after there is a better understanding of baseline data, interactions between project components, and LSFN's rights.

Q/C: The EIS has not been structured in a way that provides a good understanding of the cumulative effects assessment. Rather than trying to patch-up a poor assessment, and craft IRs to try to improve the product, can the Agency send this back to the proponent, to consult with First Nations and then return to the EIS? It is too early to review the cumulative effects presented for this project.

The cumulative effects section is missing some significant pieces, and does not indicate an amalgamation with other projects:

- It does not mention the Portage Diversion
- It does not acknowledge that increasing the water level in Lake Winnipeg, will create a reservoir for storing water for the winter
- A trends analysis is missing (i.e. this is the project and here are the trends over time)
- The anticipated maximums and minimums, when floods are occurring should have been provided
- The long-term impacts of multiple flooding events (e.g. over 100 years) has not been assessed.

R: *Although directing the proponent to start over is not an option, the Agency can utilize the IR process to work towards gathering information. We are hearing feedback, that it is difficult to understand the pathways of effects, based on the information MI provided. We can direct the proponent to consider other IRs when responding to the new IRs. The IR tool can help us move through and improve the EIS.*

Q/C: On June 3, 2020 TAG received a presentation from an archaeologist on behalf of MI, which was acknowledged as a "desk study" only. Archeological studies of the region were discussed, including studies undertaken for MI by Dr. Virginia Petch with First Nations communities. It is unclear why MI did not integrate Dr. Petch's findings in the EIS.

Studies recognized that if a site is found, there are likely 10 more nearby, particularly on the lakeshore, or on specific trails or travel routes where even more could be expected. There are likely a number of historic sites along the length of the Winnipeg River.

Questions have also been raised on the effects of the project on the islands.

F: Questions have been asked regarding historical trends, and analysis specifically on some components. Has the Agency reviewed MI's response to the April 2020 IR on cumulative effects?

R: *A thorough review of MI's response to the relevant IR has not been completed.*

Q/C: Almost everyone at this meeting representing Indigenous communities, have identified some extensive concerns with the project design and the EIS. MI needs to come back with adequate responses to the next group of IRs.

Some critical IRs relate to information that needs to be provided by First Nations communities. The LSFN will require months to undertake studies to provide the baseline information the proponent requires. Although the proponent indicated that the project will wrap up in the fall, the process needs to be slowed down.

LSFN is speaking with federal departments that received mandate letters from the Prime Minister, to advance reconciliation with Indigenous peoples and to advance and implement the UNDRIP. If this project is fast tracked without the information needed to support adequate consultation and accommodation, it is difficult to see how reconciliation can be achieved. There will be multiple risks associated with inadequate consultation. Can the Agency have a forthright conversation with the Agency?

Chat Window Comments

During this section of the discussion, the following comments (unedited) were provided in the videoconference chat window:

- Thanks Matt for your reference to the 'professional judgement' basis used throughout the EIS for contents.
- MCN felt uncomfortable with the use of the phrase "professional judgement" with no data to back up the assertions.
- Slide 21 - Would ask the Agency to include in its summary, high level focus on Land the EXERCISE OF ABORIGINAL RIGHTS. This helps make sure that a proponent does not limit its basis for assessing to land use only.
- Never seen this kind of repeated use of 'professional judgement' in an EIS before. Usually is backed up with notes if used. Potentially disrespectful given lack of the Indigenous knowledge other than lip service.
- Cumulative assessment components that should be considered; land lost to roads, quarries, construction sites, fuel stations, floodwaters and high waters levels, impact on fisheries, heritage resources needs to be included, all water control structures impacting water in LM, LSM, LW which are connected, Lake Wpg regulation for MB Hydro use of LW, reclamation of emergency channel #1 & #2.
- Emergency does have a new Manitoba license. Flood expected and hence license in 2018, I think. All in public registry. Some of the content in this EIS looks borrowed from that EIS.
- LSFN's preliminary "project and activity inclusion list" for the CEA for Current Use of Lands and Resources for Traditional Purposes (CULRTP):
- Past and present activities and projects:
 - o Construction and operation of the Fairford WCS and Portage Diversion (see EISG, s. 7.6.3)
 - o Construction and operation of the Lake St. Martin EOC (see EISG, s. 7.6.3)
 - o Construction and operation of the Bipole 1 and 2 transmission lines
 - o Construction and operation of roads and other transportation corridors within LSFN traditional territory
 - o Forestry activities

June 26, 2020 (Day Two) – Technical Advisory Group Meeting

- Agricultural activities, including livestock feedlot operations adjacent to existing and proposed project waterways
- Commercial fishing activities on Lake St. Martin and Lake Manitoba.
- Foreseeable activities and projects:
 - LSMOC Access Road - construction and operation
 - Peat mining activities
 - Removal of fish ladder from FRWC.
- Reminder re: cumulative effects - archeology and indigenous sites. No land or field studies have been done, as acknowledged June 3 by MI. The First Nation lands studies will identify many sites - and our office has been informed regarding a range of sites - See comments re the islands from June 2, 3. This is a huge gap in cumulative impacts. Dr. Petch's study may be helpful including to the communities preparing to do their studies.
- Why did MI down grade the relevance of Dr. Petch study in first week of June?
- Predictive modelling can be applied once sites are identified. There could be as many as 50 to 150 to 350 Indigenous sites in the project scope - depending on how you include the territories of affected communities. Those territories are relevant given the aquifer, water levels, drainage, draw down, and risk to plant species issues.
- Manitoba Eco Net filed comments specific to cumulative impacts.
- The Crown must identify any potential future projects that would interact with this project. This is relevant under CEAA and needed for full assessment. roads, part mining, transmission, sale of crown lands that would reduce ability to exercise aboriginal rights, etc.
- Reminder - affected First Nations re the Channel project have stated clearly in the TAG and in submissions that MI is the proponent and cannot be both the Crown and the proponent. These nations have indicated this risk clearly. The best example in Manitoba is Manitoba Hydro clearly stating that they are proponent and undertake engagement with Indigenous people - but that they do NOT consult Indigenous people about their project. That the Crown must do this. This is a clear conflict of interest.
- Are there any precedents under CEAA for the federal agency to return the EIS to the proponent more than once?
- The Agency has previously provided IRs related to historical trends (change over time) for VCs in other federal EAs. Here is an example: Considerations: The Canadian Environmental Assessment Act, 2012 requires that any cumulative environmental effects that are likely to result from the designated project in combination with other physical activities that have been or will be carried out, be taken into account in the environmental assessment.
- The EIS Guidelines (12.1.2) define cumulative effects as being changes to the environment due to the project combined with the existence of other works or other past, present and reasonably foreseeable physical activities and further states that cumulative effects may result if residual effects of the Project may combine with the effects of past, present, or reasonably foreseeable physical activities. The EIS Guidelines require an analysis of the total cumulative effect on a valued component over the life of the Project, including the incremental contribution of all current and proposed physical activities, in addition to that of the Project.
- While existing conditions have been shaped by effects of past projects and activities, using only the current state of a valued component in combination with future effects to fulfill the requirement of a cumulative effects assessment may not always provide a full understanding of the cumulative effects of successive projects from the past, present and future. If each

- successive project in an area uses a baseline into which past effects have been incorporated, the baseline is continually shifted and significant effects to valued components could be overlooked because of the absence of consideration of the effects of prior projects.
- A cumulative effects assessment that fulfills the requirements of the Canadian Environmental Assessment Act, 2012 and the EIS Guidelines would need to provide a clear understanding of how a valued component (1) has been affected by past projects and activities, (2) is being affected by existing projects and activities and, (3) could be affected by future projects and activities.
 - Consideration of past effects could be done by describing qualitatively known trends in the condition of the valued component using available Aboriginal traditional knowledge, historic data or any other sources and describing how past activities have affected the conditions of the valued component.
 - Information Required: For each valued component that may be affected by residual adverse effects of the Project, provide an analysis of the total cumulative effects over the life of the Project. The analysis should include:
 - o how the valued component has been affected by past projects and activities;
 - o how the valued component would be further affected by the residual effects of the Project; and
 - o how other certain and reasonably foreseeable projects and activities may also affect the valued component.
 - We made a request to MI since the first week of June - as their staff urged. The lack of a Map Folio in the EIS off loads on to other parties' best access to information. Maps imbedded in small pages is not a good enough standard. Again in Manitoba we are used to receiving a full map folio on paper and on DVD for major public works going into EA, review, hearings, or any of the above.
 - How can MI answer detailed IRs, prepare the missing plans etc. without the First Nation traditional lands studies results?

10. CLOSING COMMENTS

Jennifer Saxe, Director General, Regional Operations, Impact Assessment Agency of Canada

Director General Saxe extended thanks to attendees for their participation at the meeting, noting that their feedback would help frame the next IRs.

Comments provided during the meeting related to the need for a better understanding of baseline conditions, mitigation measures, gaps in information in the EIS, impacts on Indigenous peoples, and spatial and temporal boundaries, were appreciated and would be followed up on. Requests to involve Indigenous groups were also heard.

In terms of next steps, the Director General confirmed that the next IR package will be prepared and sent to MI, and that some direct discussions will be arranged to ensure they clearly understand the information required. The TAG will subsequently be brought back together to discuss MI's responses.

CLOSING PROTOCOL

The June 25-26, 2020 Technical Advisory Group Meeting concluded at approximately 4:10 p.m. Co-Facilitator Jim Ransom offered a Closing Prayer.

* * *

Acronym List

The following acronyms are used in these meeting notes:

CEAA	<i>Canadian Environmental Assessment Act</i>
cfs	Cubic feet per second
CWS	Canadian Wildlife Service
DFO	Department of Fisheries and Oceans
EA	Environmental Assessment
EIS	Environmental Impact Statement
FRCN	Fisher River Cree Nation
IAAC	Impact Assessment Agency of Canada
IR	Information Request
LAA	Local Assessment Areas
LMOC	Lake Manitoba Outlet Channel
LSFN	Little Saskatchewan First Nation
LSMOC	Lake St. Martin Outlet Channel
MCN	Misipawistik Cree Nation
MMF	Manitoba Metis Federation
MI	Manitoba Infrastructure
NEB	National Energy Board
RAA	Regional Assessment Area
<i>SARA</i>	<i>Species At Risk Act</i>
TAG	Technical Advisory Group
TLRU	Traditional Land and Resource Use
TRC	Truth and Reconciliation Commission
TSS	Total Suspended Solids
UNDRIP	United Nations Declaration on the Rights of Indigenous Peoples
VC	Value component

Information Items

The following items were referenced or reviewed during the meeting:

1. Agenda for the June 25-26, 2020 Meeting of the Technical Advisory Group – Lake Manitoba and Lake St. Martin Outlet Channels project
2. Document titled, “Links to Comments on Registry”
3. IAAC presentation titled, “Lake Manitoba and Lake St. Martin Outlet Channels Project – Technical Advisory Group Meeting, June 25 and 26, 2020”
4. IAAC presentation titled, “Impact Assessment Agency of Canada: Decision Statements Under CEAA 2012 – Presentation to the Technical Advisory Group for the Lake Manitoba and Lake St. Martin Outlet Channels Project”
5. KGS report titled, “Assiniboine River and Lake Manitoba Basins Flood Mitigation Study”, dated January 2016 (<https://www.gov.mb.ca/mit/wms/wm/study.html>)

List of Attendees

The following were pre-registered as attendees (or self-introduced during the meeting):

MEMBERS/REPRESENTATIVES:

Brokenhead Ojibway First Nation:

- Bev Smith
- Rachel Speiran

Fisher River Cree Nation:

- Councillor Vince Crate
- Harley Jonasson
- Marge Murdock

Interlake Reserves Tribal Council, representing Lake Manitoba First Nation, Dauphin River First Nation and Kinonjeoshtegon First Nation:

- Tosan Okorosobo
- Seetta Roccola

Lake St. Martin First Nation:

- Mervin Sinclair
- Steve Topping

Little Saskatchewan First Nation:

- Trefor Smith

Manitoba Metis Federation:

- Morrissa Boerchers
- Jasmine Langhan
- Marci Riel

Misipawistik Cree Nation:

- Derek Kornelsen – Rootstalk Resources
- Kirsten Earl McCorrister

Peguis First Nation:

- Meggie Okeke
- Mike Sutherland

Pimicikamak Okimawin and Norway House Cree Nation:

- Annette Luttermann

Southern Chiefs Organization, representing Black River First Nation and Bloodvein First Nation:

- Coty Zachariah

Tataskweyak Cree Nation, Mispawistik Cree Nation, and Peguis First Nation:

- Ian Halket, Halket Environmental Consultants
- Robert Spence

Pinaymootang First Nation, Sagkeeng First Nation, and Sandy Bay Ojibway First Nation:

- Alex Nisbet, Myers LLP
- Jim Rettie

Poplar River First Nation:

- Jared Whelan
- Gaile Whelan Enns

Rural Municipality of Grahamdale:

- Jason Bittner
- Tera Lobay
- John Osler
- Steve Topping
- Shelly ?

PROVINCIAL GOVERNMENT REPRESENTATIVES:

Manitoba, Conservation and Climate:

- Kenzie Caldwell
- Shannon Kohler
- Bruce Webb

List of Attendees

FEDERAL GOVERNMENT REPRESENTATIVES:

Environment and Climate Change Canada:

- Brian Asher
- Paulson Des Brisay
- Cari-Lyn Epp
- Orlagh O'Sullivan

Fisheries and Oceans Canada:

- Richard Gervais
- Jeff Moyer

Health Canada:

- Joel Kaushansky
- Pierre Pelletier

Indigenous Services Canada:

- Dan Benoit

Infrastructure Canada:

- Deborah Campbell
- Danielle Duplisea
- Heather Flynn

Natural Resources Canada:

- Peter Unger

Transport Canada:

- Chris Aguirre
- Jackie Barker

ALSO PRESENT:

Impact Assessment Agency of Canada:

- Selly Boss
- Greg Bosse
- Matthew Dairon
- Rebecca D'Onofrio
- Lynette Esak
- Chelsea Fedrau
- Ashifa Jiwa
- Anna Kessler
- Ian Ketcheson
- Stephen McCarthy
- Laurence Provençal-Vincent
- Barbara Pullishy
- Sumaiya Rizvi
- Spencer Roth
- Jennifer Saxe
- Ayesha Sohail
- Susan Tiege

WebEx Support:

- Alice Zimmer

Facilitation Services (Tarbell Facilitation Network):

- John Ransom
- Harold Tarbell

Preparation of Meeting Notes:

- Carrie Peacock, Raincoast Ventures Ltd.