

Attachments to IRTC  
conformity comments,  
September 20, 2019



# Interlake Reserves Tribal Council, Inc.

May 16, 2018

VIA Email: [dmmi@leg.gov.mb.ca](mailto:dmmi@leg.gov.mb.ca)

Manitoba Infrastructure  
Room 209, Legislative Building  
Winnipeg, MB R3C 0V8

Attention: Deputy Minister Bram Strain,

Dear Sir:

**Re: Interlake Reserves Tribal Council Consultation Protocol on Channels Project**

This is further to your letter dated April 16, 2018, which was received on our office on April 23, 2018, concerning consultation matters with Interlake Reserves Tribal Council (IRTC) on the Channels Project.

First, at the outset, we agree that more engagement is required and the IRTC is fully committed to participate in this consultation process.

Second, the other matters raised in the letter underscore the need for some predictability and clarity with respect to the consultation process for this Project. To date, Manitoba's *ad hoc* approach to consultation has resulted in IRTC expending more resources on administrative matters rather than meaningful consultation. Unlike the province, we have limited employee capacity need to create efficiencies wherever possible. This Project requires a jointly developed consultation protocol, that includes ongoing predictable funding, for the duration of the federal and provincial regulatory processes.

We refer you to Manitoba's *Guidelines for Crown Consultations with First Nations, Métis Communities and Other Aboriginal Communities (May 4, 2009)*, which provide that a consultation protocol should be jointly developed with affected Indigenous communities for large-scale projects. The proposed Channels Project is a large-scale project. Based on the *Guidelines*, the consultation process needs to be reasonable and workable, set appropriate timelines for consultation to ensure the process is effective and cost efficient. Your *Guidelines* also direct that adequate resources be committed to ensure meaningful consultation. An effective and fair consultation protocol will govern consultation throughout the regulatory and project approval process, and include predictable, ongoing funding.

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A clear road-map would lead to more efficacies for all involved, including your department. Manitoba's current *ad-hoc* approach, where plans and funding are subject to annual approval, at the sole discretion of the province, has turned out to be unworkable and unfair for the IRTC.

We predict that the development of the protocol could be complete by the end of June if the province and the IRTC dedicate adequate resources and employee time to this. Pending final conclusion of the protocol, the IRTC would require interim-funding as the Phase I Agreement expired in August, 2017.

Third, the IRTC wishes to emphasize the importance of having a single point of contact for consultation matters. At our March 7, 2018 meeting, Manitoba advised that Mr. Dave Hicks would be the primary point of contact. Please advise if this is no longer the case.

Fourth, in specific response to your April 16, 2018 letter, all deliverables from Phase 1 have been met. It is not clear to us whether the letter was perhaps drafted before our March 7, 2018 meeting. In any event, we make the following comments with respect to the Phase 1 deliverables:

1. **Coordinate resource mapping meetings.** IRTC member First Nations participated in meetings with Manitoba in October and December of 2017. The results of these meetings were shared with Manitoba in the January 17, 2018 Interlake Reserves Tribal Council October Phase 1 Traditional Land Use and Traditional Knowledge Report. This deliverable has been met.

We respectfully remind Manitoba that the obligation to fulfill the duty to consult rests with the province and the federal Crown. The IRTC is fully committed to participating in this consultation, but we do not see our role as akin to the role of a provincial consultation office.

2. **Scoping and resourcing requirements for the IRTC Traditional Knowledge and Land Use Study.** IRTC provided Manitoba with the requested additional information in advance of our meeting on March 7, 2018. This deliverable has been met. We also note that scoping for studies will be driven in part by the federal and provincial terms of reference for the EIAs. The federal EIS Guidelines were just released this afternoon. The consultation protocol would address scoping in detail.
3. **Financial and activity reporting.** We agree with Manitoba that this deliverable has been met.

Finally, our office received a request to meet with the IRTC First Nations' Chiefs on May 31, 2018. We are unclear about the purpose of this meeting. In our view, what is critical at this juncture is for our technicians and staff to meet and develop a consultation protocol. We trust that you can appreciate that the Chiefs have communities to run and, like Cabinet Ministers, delegate day-to-day work, such as hammering out a consultation process, to staff and other officials. Leadership meetings are an item that we should also discuss in the consultation protocol.

The IRTC is optimistic that we can work with Manitoba to develop a protocol in a co-operative and timely way. We look forward to hearing from you or Mr. Hicks with respect to interim-funding and meeting dates to discuss the content of a protocol.

Sincerely,

***INTERLAKE RESERVES TRIBAL COUNCIL***

<original signed by>

  
Karl Zadnik  
Chief Executive Officer

cc: Dave Hicks  
Dave.Hicks@gov.mb.ca

cc. IRTC Board of Directors  
Meaghan Conroy





# Interlake Reserves Tribal Council, Inc.

May 24, 2018

Manitoba Indigenous and Northern Relations  
Consultation and Reconciliation Branch  
400 – 352 Donald Street  
Winnipeg, MB R3B 2H8  
Attention: Dave Hicks,  
[Dave.Hicks@gov.mb.ca](mailto:Dave.Hicks@gov.mb.ca)

Manitoba Infrastructure  
Water Management and Structures  
6<sup>th</sup> Floor – 215 Garry Street  
Winnipeg, MB R3C 3P3  
Attention: Christine Baljko,  
[Christine.Baljko@gov.mb.ca](mailto:Christine.Baljko@gov.mb.ca)

## Re: Interlake Reserves Tribal Council Consultation Protocol on Channels Project

Dear Mr. Hicks and Ms. Baljko:

This is further to our letter of May 18, 2018, to the Deputy Minister regarding the need for a consultation protocol and the proposed May 31, 2018 open-house in Winnipeg.

It is clear that the IRTC and the Province need a 're-set' on their consultation process. We want to work together with Manitoba to clearly define the path forward. At this early stage in the consultation and regulatory process, and now that CEAA's EIS Guidelines and Manitoba's proposed scope for the EA has been published, the timing is ripe to update the process.

To this end, in advance of the planned open-house, we propose a meeting to be held **on Wednesday, May 30 at 3pm or later at the IRTC office in Winnipeg**. The goal of the meeting would be to develop the outline of a consultation plan to bring to our respective leadership for approval. We would ask that you both attend for Manitoba. In attendance for IRTC will be me and Seetta Roccola, as well as our legal counsel, Meaghan Conroy. We invite you to ask your lawyer to attend as well.

The current process is not working. There has been a gap in our consultation funding for more than 2 months. This is incompatible with the Premier's expressed desire to build this project quickly. Wasting resources on spinning our wheels in the current flawed process is only frustrating this objective.

From IRTC's perspective, it feels like the rules are being made up as we go along or changed mid-stream, and conditions applied to consultation funding and work-plans after the fact. For example, the IRTC laid out a protocol and budget long ago which we understood there was agreement on. More than a year later, on March 21, 2018, the Province provided us with the Crown-Aboriginal Consultation Fund Community Guide. We had not seen this Guide before. By this time, the Phase 1 work was and we had provided the province with our Phase 2 proposal. We have since spent far more time on administrative paper-pushing than on consultation. At the same time, Manitoba is questioning our need for staff to carry out this consultation and wanting to continue push forward with the open-house.

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We did not anticipate that when we agreed to the Winnipeg open-house on May 31 that the Phase 2 work plan and funding would be limbo.

Another example of the *ad hoc* nature of the process was a totally unplanned and unexpected visit by the Premier and the Minister of Infrastructure to the Chief of one of our member First Nations.

This conduct by the Province has left the IRTC with the impression that the province believes that more meetings (no matter their content) means more consultation. Open-houses and glad-handing meetings, do not amount to meaningful consultation with First Nations on a project like this one. In the absence of a plan where we know the process and studies to conduct moving forward, with reasonable and predictable resources to obtain independent technical advice for the IRTC, these meetings give the appearance of a proponent padding their consultation record. For this reason, we have serious reservations about conducting community meetings or open-houses until we have a clear plan and ongoing, predictable funding to implement that plan.

We look forward to hearing from you at your earliest convenience to arrange the May 30<sup>th</sup> meeting.

Regards,

***INTERLAKE RESERVES TRIBAL COUNCIL INC.***

<original signed by>

Karl Zadnik  
Chief Executive Officer

cc: Meaghan Conroy, MLT Aikins LLP  
MConroy@mltaikins.com

cc. IRTC Board of Directors

---

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**Interlake Reserves Tribal Council  
Consultation Protocol Terms for Discussion  
June 1, 2018**

*presented by IRTC  
Rejected by  
MI @ June 1/  
2018  
meeting*

**Consultation**

1. Deep consultation with IRTC is required due to IRTC member nation's established Treaty rights and the seriousness of the potential for effects on IRTC Treaty rights.
2. IRTC and Manitoba will consult in good faith, working towards meaningful accommodation of impacts identified with respect to IRTC's Treaty rights, traditional land use, reserve lands.
3. Consultation should occur as early in the decision-making process as possible to allow for meaningful accommodation measures to be included at a strategic planning level.
4. Manitoba shall provide adequate, predictable, resources to the IRTC to ensure meaningful consultation and to ensure it is conducted in a timely and efficient manner.
5. IRTC and Manitoba agree to reasonable timelines for key deliverables in the consultation process and to respond to each other in a timely way.
6. Manitoba shall report to IRTC with respect to how information provided by IRTC was incorporated into the federal and provincial environmental assessments.
7. Key Contacts: IRTC and Manitoba will endeavor to direct consultation communications to each party's primary consultation contacts. IRTC's primary consultation contacts are Karl Zadnik <personal information removed> and Seetta Roccola <personal information removed>. Manitoba's primary consultation contact is Dave Hicks (Dave.Hicks@gov.mb.ca, 204-945-2506).

**Studies & Technical assistance**

8. The project proponent (Manitoba Infrastructure) is required to fund all studies necessary to complete the provincial and federal environmental assessments.
9. Traditional land use / cultural impact studies: Under the federal Environmental Impact Statement Guidelines, a traditional land use/ cultural impact study is required. Similar studies are required under the Environmental Assessment Scoping Document, as proposed by Manitoba Infrastructure.
  - Community-specific traditional land use/cultural impact studies will be led by the IRTC in cooperation with its participating member Nations, and with consultants of its own choosing. A separate traditional land use/cultural impact studies will be conducted for each participating member Nation
  - The IRTC shall submit these studies to Manitoba to be included in its provincial and federal assessments

- The funding and timing to deliver these studies will be agreed upon by the parties based on a scope of work provided by the IRTC to Manitoba
10. Health and Socio-economic assessment: To be community led. The IRTC shall submit the study to Manitoba to be included in its assessment.
  11. The IRTC will require independent technical assistance to provide informed input into the following:
    - selection of VCs,
    - spatial and temporal boundaries of the assessment
    - review of draft EA
    - development of mitigation and accommodation measures

### **Funding & Reporting**

12. Consultation funding shall be separate and apart from funding for Studies and Technical Assistance set out above.
13. Funding for the life of the regulatory process.
14. IRTC acknowledges that funding for consultation and technical studies will not be used to fund litigation or provide payment to any elected leaders.
15. Manitoba shall have the right to review IRTC records in relation to project consultation and technical studies.



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**From:** Karl Zadnik <personal information removed>  
**Sent:** Monday, June 18, 2018 9:55 AM  
**To:** [Dave.Hicks@gov.mb.ca](mailto:Dave.Hicks@gov.mb.ca)  
**Cc:** [Christine.Baljko@gov.mb.ca](mailto:Christine.Baljko@gov.mb.ca); <personal information removed>  
**Subject:** Fwd: Phase 2 budget

Good morning Dave,  
We have resent the revised proposal and budget last Friday.

When can we expect a response and or the funding to proceed to phase 2?

To summarize our meeting on Friday:

- IRTC expects to lead all TKLU studies for its member communities
- IRTC shared that this funding provides by the Province isn't enough to cover a complete robust TKLU so that the cultural impact statement needed by CEAA can be fulsome and all inclusive. Our experience with proponents is that we know proponents will typically amend agreements when funding is inadequate its unfortunate the Province can't do this.
- IRTC will look to CEAA as well for funding for the federal process that has been shared by CEAA.
- Consultation log needs IRTCs and member communities input to accurately reflect the dialogue and engagement that has transpired since day 1 of engagement by the Province. Without our input into this consultation log, this log is not accurate to the discussions that have taken place with us. When can we expect this?

Best Regards,

Karl Zadnik  
Executive Director  
Interlake Reserves Tribal Council  
Email: <personal information removed>

Begin forwarded message:

**From:** Seetta Roccola <personal information removed>  
**Date:** June 18, 2018 at 9:39:55 AM CDT  
**To:** Karl Zadnik <personal information removed>  
**Subject:** Fwd: Phase 2 budget

Have a great day!

Begin forwarded message:

**From:** "Baljko, Christine (MI)" <[Christine.Baljko@gov.mb.ca](mailto:Christine.Baljko@gov.mb.ca)>  
**Date:** June 15, 2018 at 2:46:26 PM CDT  
**To:** <personal information removed>  
**Subject:** Re: Phase 2 budget

Thanks I'll take a look and get back to you shortly.

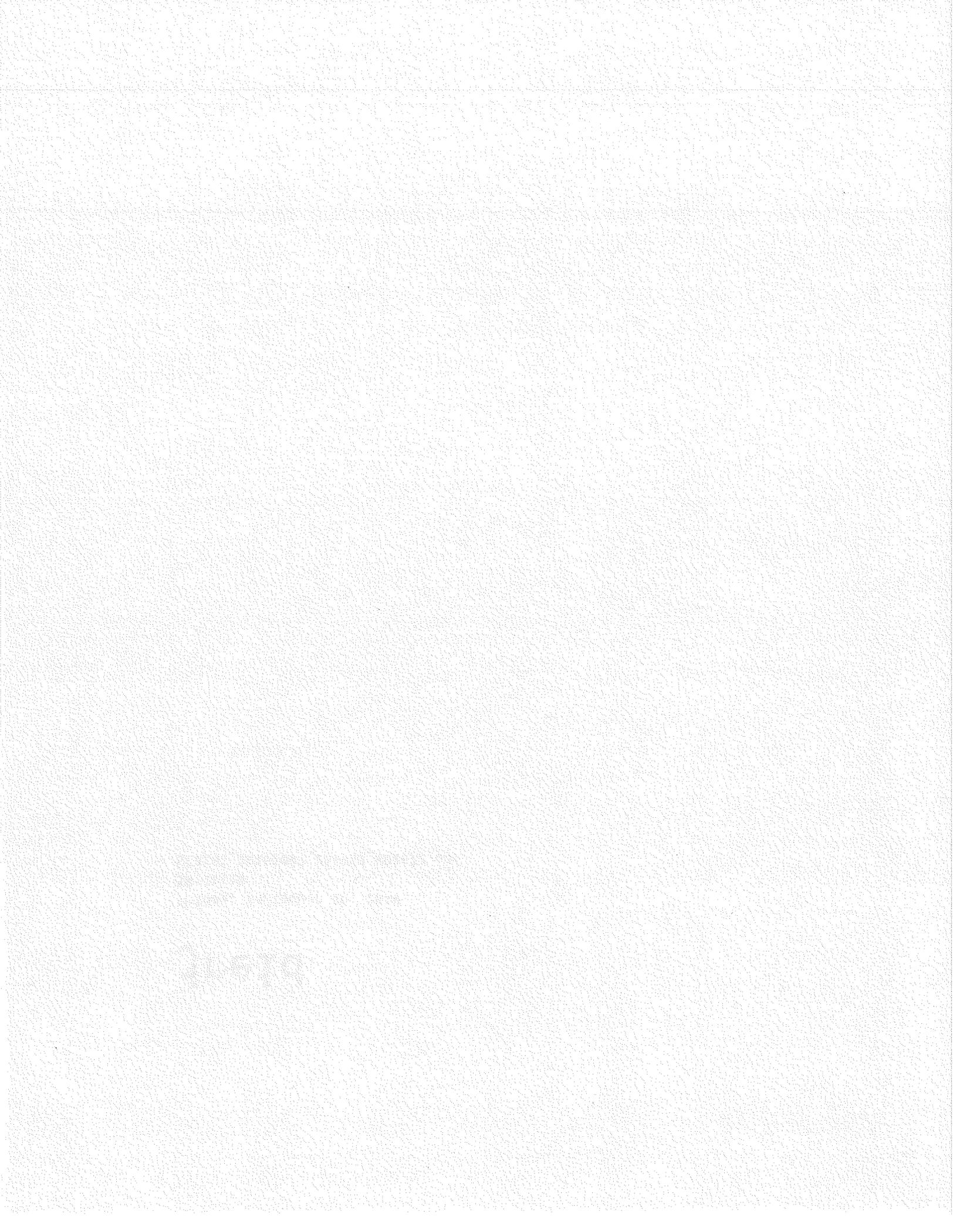
Sent from my iPhone

On Jun 15, 2018, at 2:06 PM, <personal information removed>  
wrote:

Hi Christine,

Further to our meeting this morning, do you have any  
questions/comments?

<LM-LSM Outlet -workplan phase 2.docx.awsec>





# Interlake Reserves Tribal Council, Inc.

July 27, 2018

Anna Kessler, Project Manager  
Canadian Environmental Assessment Agency  
Prairie and Northern Region  
Canada Place  
Suite 1145, 9700 Jasper Avenue  
Edmonton, Alberta T5J4C3

## Re: Lake Manitoba and Lake St Martin Outlet Channels Project – Invitation to Participate

Dear Ms. Kessler:

The Interlake Reserves Tribal Council is interested in the opportunity to meaningfully participate in the environmental assessment process and open to discussing with CEAA the form that our participation will take.

- We want to be clear that the IRTC does not view participation in an advisory group and a review panel hearing as mutually exclusive processes. The legislation does not say they are mutually exclusive. We are strongly of the view that a review panel hearing is necessary for this project.
- We also want to emphasize that Indigenous participation in any advisory group can be no substitute to properly conducted impact assessments, including assessments of the potential impacts on our Treaty and Aboriginal rights as set out in the EIS Guidelines.
- We request confirmation from CEAA that - as with all Environmental Impact Statements – the Project proponent is required to fund impact assessments, including impact assessments on our rights and interests, and that any advisory group would not relieve the proponent of this responsibility. Too often impacts on s.35 rights are not studied or studied in a cursory manner or as an afterthought. Having an indigenous representative at a table, much like holding open-houses, is not a replacement for properly and ethically conducted studies about the potential impacts of the project on our people and our rights.
- The IRTC is very concerned that Manitoba Infrastructure views open houses and meetings as enough and is not committed to doing the studies necessary to properly understand the potential impacts of the Project on our Nations. This concern is based on meetings with the proponent since the release of the EIS guidelines. In 2017, Manitoba approved funding for consultation based on the scope of consultation and Traditional Land Use studies they saw as necessary for the provincial approval process. They have flatly refused to provide any

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additional funding for studies about impacts on our rights and interests that align with the EIS guidelines.

- Another matter we also seek clarification on is the level of independent technical support that will be offered to Indigenous participants. To participate in any meaningful way in any technical advisory group we will require our own technical advice.
- We would need to consult internally about the desired terms of reference.

If you have any questions please let us know.

Sincerely,

Karl Zadnik, CEO  
Interlake Reserves Tribal Council  
(Encl.)

Cc. Meaghan Conroy, [mconroy@mltaikins.com](mailto:mconroy@mltaikins.com)

Board of Directors



## Jennifer Graysn

---

**From:** Meaghan M. Conroy  
**Sent:** Friday, July 27, 2018 7:19 PM  
**To:** Jennifer Graysn  
**Subject:** FW: Invitation to Participate - Technical Advisory Group for the Lake Manitoba and Lake St. Martin Outlet Channels Project  
**Attachments:** IRTC letter to CEAA.docx; IRTC letter to CEAA copy copy.pdf

Please print email and attachments and file in IRTC – Federal Pleadings Binder

**Meaghan M. Conroy**  
**Partner**  
P: +1 (780) 969-3515 | E: mconroy@mltaikins.com

**From:** Karl Zadnik <personal information removed>

**Sent:** Friday, July 27, 2018 7:03 PM

**To:** Anna Kessler

**Cc:** Meaghan M. Conroy; <personal information removed>

< |  
**Subject:** Re: Invitation to Participate - Technical Advisory Group for the Lake Manitoba and Lake St. Martin Outlet Channels Project

Good evening Anna,

Please see attached letter, signed copy to follow on Monday.

If you have any questions please let me know. My scanner isn't working at the moment.

Best regards,

Karl Zadnik

Sent from my iPad

On Jul 27, 2018, at 9:28 AM, Karl Zadnik <personal information removed>

Karl Zadnik, B.Comm.(Hons.), PM Cert.  
Executive Director  
Interlake Reserves Tribal Council  
<personal information removed>

This email message, including any attachments, may contain information that is confidential and/or exempt from disclosure under applicable law. If you received this message in error,

please immediately notify the sender by reply email and delete this email, including any attachments.

**From:** Kessler,Anna [CEAA] [<mailto:Anna.Kessler@ceaa-acee.gc.ca>]

**Sent:** July 3, 2018 4:58 PM

**To:** 'Karl Zadnik <[personal information removed](#)>

**Cc:** Dairon,Matthew [CEAA] <[Matthew.Dairon@ceaa-acee.gc.ca](mailto:Matthew.Dairon@ceaa-acee.gc.ca)>; Lake Manitoba and Lake St. Martin Outlet Channels Project / Projet des canaux de déversement du lac Manitoba et lac Martin[CEAA\ACEE] <[CEAA.LakeManitoba-LacManitoba.ACEE@ceaa-acee.gc.ca](mailto:CEAA.LakeManitoba-LacManitoba.ACEE@ceaa-acee.gc.ca)>

**Subject:** Invitation to Participate - Technical Advisory Group for the Lake Manitoba and Lake St. Martin Outlet Channels Project

Good afternoon Karl,

Please see the attached letter inviting your participation in the Technical Advisory Group for the federal environmental assessment of the Lake Manitoba and Lake St. Martin Outlet Channels Project. Information regarding consultation and opportunities for funding will be sent shortly as separate correspondence.

Should you have any questions, please do not hesitate to contact me.

Kind regards,  
Anna

Anna Kessler

Project Manager, Prairie and Northern Region  
Canadian Environmental Assessment Agency / Government of Canada  
[anna.kessler@ceaa-acee.gc.ca](mailto:anna.kessler@ceaa-acee.gc.ca) / Tel: 780-495-2479 / Canada Place, Suite 1145-9700 Jasper Avenue,  
Edmonton Alberta, T5J 4C3

Gestionnaire de projets, Région des prairies et du nord  
Agence canadienne d'évaluation environnementale / Gouvernement du Canada  
[anna.kessler@ceaa-acee.gc.ca](mailto:anna.kessler@ceaa-acee.gc.ca) / Tél.: 780-495-2479 / Place du Canada, pièce 1145 9700 avenue Jasper,  
Edmonton Alberta, T5J 4C3

<Interlake Reserves Tribal Council - Technical Advisory Group Invitation.pdf>



# Interlake Reserves Tribal Council, Inc.

July 27, 2018

Anna Kessler, Project Manager  
Canadian Environmental Assessment Agency  
Prairie and Northern Region  
Canada Place  
Suite 1145, 9700 Jasper Avenue  
Edmonton, Alberta T5J4C3

## Re: Lake Manitoba and Lake St Martin Outlet Channels Project – Invitation to Participate in Technical Advisory Group

Dear Ms. Kessler:

The Interlake Reserves Tribal Council is interested in the opportunity to meaningfully participate in the environmental assessment process and open to discussing with CEAA the form that our participation will take.

- We want to be clear that the IRTC does not view participation in an advisory group and a review panel hearing as mutually exclusive processes. The legislation does not say they are mutually exclusive. We are strongly of the view that a review panel hearing is necessary for this project.
- We also want to emphasize that Indigenous participation in any advisory group can be no substitute to properly conducted impact assessments, including assessments of the potential impacts on our Treaty and Aboriginal rights as set out in the EIS Guidelines.
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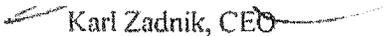
additional funding for studies about impacts on our rights and interests that align with the EIS guidelines.

- Another matter we also seek clarification on is the level of independent technical support that will be offered to Indigenous participants. To participate in any meaningful way in any technical advisory group we will require our own technical advice.
- We would need to consult internally about the desired terms of reference.

If you have any questions please let us know.

Sincerely,

<original signed by>

 Karl Zadnik, CEO  
Interlake Reserves Tribal Council  
(Encl.)

Cc. Meghan Conroy, [mconroy@mltaikins.com](mailto:mconroy@mltaikins.com)

Board of Directors



## Jennifer Graysn

---

**From:** Meaghan M. Conroy  
**Sent:** Sunday, July 29, 2018 9:16 PM  
**To:** Jennifer Graysn  
**Subject:** FW: Invitation to Participate - Technical Advisory Group for the Lake Manitoba and Lake St. Martin Outlet Channels Project  
**Attachments:** attachment 1.pdf

Print attached and email for IRTC federal pleadings

### Meaghan M. Conroy

Partner

📧: <personal information removed> | 📧: <email address removed>

**From:** 'Karl Zadnik' <personal information removed>

**Sent:** Saturday, July 28, 2018 5:59 PM

**To:** Anna Kessler

**Cc:** Meaghan M. Conroy; <personal information removed>

<personal information removed>

**Subject:** Re: Invitation to Participate - Technical Advisory Group for the Lake Manitoba and Lake St. Martin Outlet Channels Project

Anna,

Please see signed attachment as communicated to you yesterday.

Best regards

Karl Zadnik, BComm(Hons), PM Cert.

Chief Executive Officer

Interlake Reserves Tribal Council

On Jul 27, 2018, at 8:03 PM, Karl Zadnik <personal information removed>

Good evening Anna,

Please see attached letter, signed copy to follow on Monday.

If you have any questions please let me know. My scanner isn't working at the moment.

<IRTC letter to CEAA.docx>

<IRTC letter to CEAA copy copy.pdf>

Best regards,

Karl Zadnik

Sent from my iPad

On Jul 27, 2018, at 9:28 AM, Karl Zadnik <[personal information removed](#)>

Karl Zadnik, B.Comm.(Hons.), PM Cert.  
Executive Director  
Interlake Reserves Tribal Council  
<[personal information removed](#)>

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**Sent:** July 3, 2018 4:58 PM

**To:** 'Karl Zadnik <[personal information removed](#)>

**Cc:** Dairon,Matthew [CEAA] <[Matthew.Dairon@ceaa-acee.gc.ca](mailto:Matthew.Dairon@ceaa-acee.gc.ca)>; Lake Manitoba and Lake St. Martin Outlet Channels Project / Projet des canaux de déversement du lac Manitoba et lac Martin[CEAA\ACEE] <[CEAA.LakeManitoba-LacManitoba.ACEE@ceaa-acee.gc.ca](mailto:CEAA.LakeManitoba-LacManitoba.ACEE@ceaa-acee.gc.ca)>

**Subject:** Invitation to Participate - Technical Advisory Group for the Lake Manitoba and Lake St. Martin Outlet Channels Project

Good afternoon Karl,

Please see the attached letter inviting your participation in the Technical Advisory Group for the federal environmental assessment of the Lake Manitoba and Lake St. Martin Outlet Channels Project. Information regarding consultation and opportunities for funding will be sent shortly as separate correspondence.

Should you have any questions, please do not hesitate to contact me.

Kind regards,  
Anna

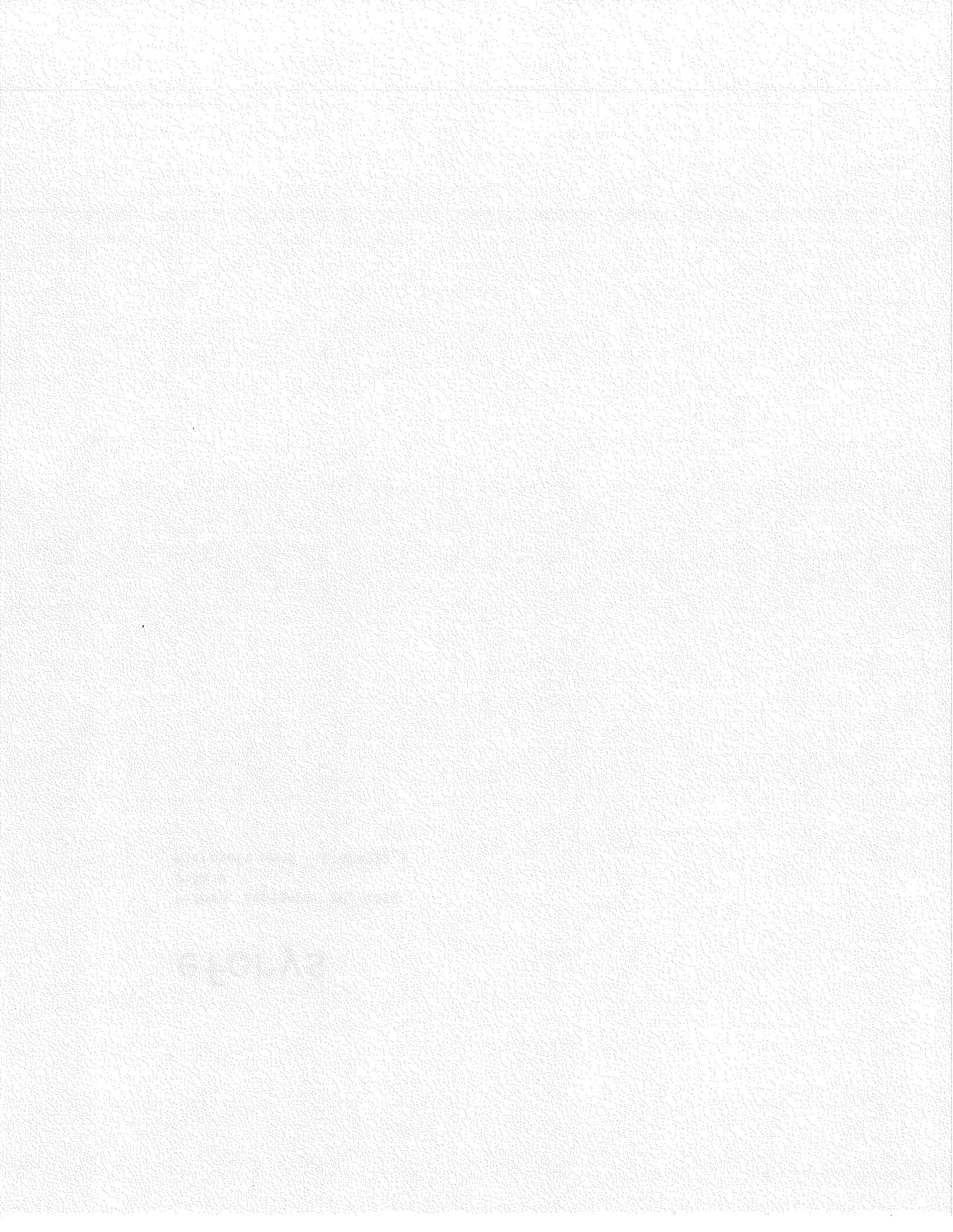
Anna Kessler

Project Manager, Prairie and Northern Region  
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Jasper Avenue, Edmonton Alberta, T5J 4C3

Gestionnaire de projets, Région des prairies et du nord  
Agence canadienne d'évaluation environnementale / Gouvernement du Canada

[anna.kessler@ceaa-acee.gc.ca](mailto:anna.kessler@ceaa-acee.gc.ca) / Tél.: 780-495-2479 / Place du Canada, pièce 1145 9700  
avenue Jasper, Edmonton Alberta, T5J 4C3

<Interlake Reserves Tribal Council - Technical Advisory Group Invitation.pdf>





## Infrastructure

Deputy Minister of Infrastructure  
Room 209, Legislative Building, Winnipeg, Manitoba, Canada R3C 0V8  
T 204 945-3768 F 204 945-4766  
[dmmi@leg.gov.mb.ca](mailto:dmmi@leg.gov.mb.ca)

June 29, 2018

Mr. Karl Zadnik  
Chief Executive Officer  
Interlake Reserves Tribal Council, Inc.  
General Delivery  
Fairford MB R0C 0X0

Dear Mr. Zadnik:

Thank you for your May 16, 2018 letter about the Interlake Reserves Tribal Council (IRTC) Consultation Protocol on the outlet channels project. I will be responding to you on behalf of Manitoba Infrastructure.

During the provincial by-election period from June 20 to July 17, 2018, there are limitations on public communications under The Election Financing Act. Due to the nature of your letter, a full response to your concerns will be deferred until the conclusion of the by-election, on or after July 18, 2018.

Thank you for your inquiry.

Sincerely,

<original signed by>

Bram Strain  
Deputy Minister

c: Honourable Ron R. Schuler, Minister of Infrastructure



2015

2016

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2019

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2029

**From:** Karl Zadnik <personal information removed>  
**Date:** July 4, 2018 at 1:41:23 PM CDT  
**To:** [Dave.Hicks@gov.mb.ca](mailto:Dave.Hicks@gov.mb.ca)  
**Cc:** [Christine.Baljko@gov.mb.ca](mailto:Christine.Baljko@gov.mb.ca), <personal information removed>  
**Subject:** Re: Phase 2 budget

Good afternoon Dave

It is now July 4th, and we haven't heard back from your office. Time is of essence as we still haven't had the Province consult with the communities as expected.

Best Regards

Karl Zadnik  
Executive Director  
Interlake Reserves Tribal Council  
<personal information removed>

On Jun 18, 2018, at 10:54 AM, Karl Zadnik <personal information removed>

Good morning Dave,  
We have resent the revised proposal and budget last Friday.

When can we expect a response and or the funding to proceed to phase 2?

To summarize our meeting on Friday:

- IRTC expects to lead all TKLU studies for its member communities
- IRTC shared that this funding provided by the Province isn't enough to cover a complete robust TKLU so that the cultural impact statement needed by CEAA can be fulsome and all inclusive. Our experience with proponents is that we know proponents will typically amend agreements when funding is inadequate its unfortunate the Province can't do this.
- IRTC will look to CEAA as well for funding for the federal process that has been shared by CEAA.
- Consultation log needs IRTCs and member communities input to accurately reflect the dialogue and engagement that has transpired since day 1 of engagement by the Province. Without our input into this consultation log, this log is not accurate to the discussions that have taken place with us. When can we expect this?

Best Regards,

Karl Zadnik  
Executive Director  
Interlake Reserves Tribal Council  
<personal information removed>

Begin forwarded message:

**From:** Seetta Roccola <personal information removed>  
**Date:** June 18, 2018 at 9:39:55 AM CDT  
**To:** Karl Zadnik <personal information removed>  
**Subject:** Fwd: Phase 2 budget

Have a great day!

Begin forwarded message:

**From:** "Baljko, Christine (MI)"  
<Christine.Baljko@gov.mb.ca>  
**Date:** June 15, 2018 at 2:46:26 PM CDT  
**To:** <personal information removed>  
**Subject:** Re: Phase 2 budget

Thanks I'll take a look and get back to you shortly.

Sent from my iPhone

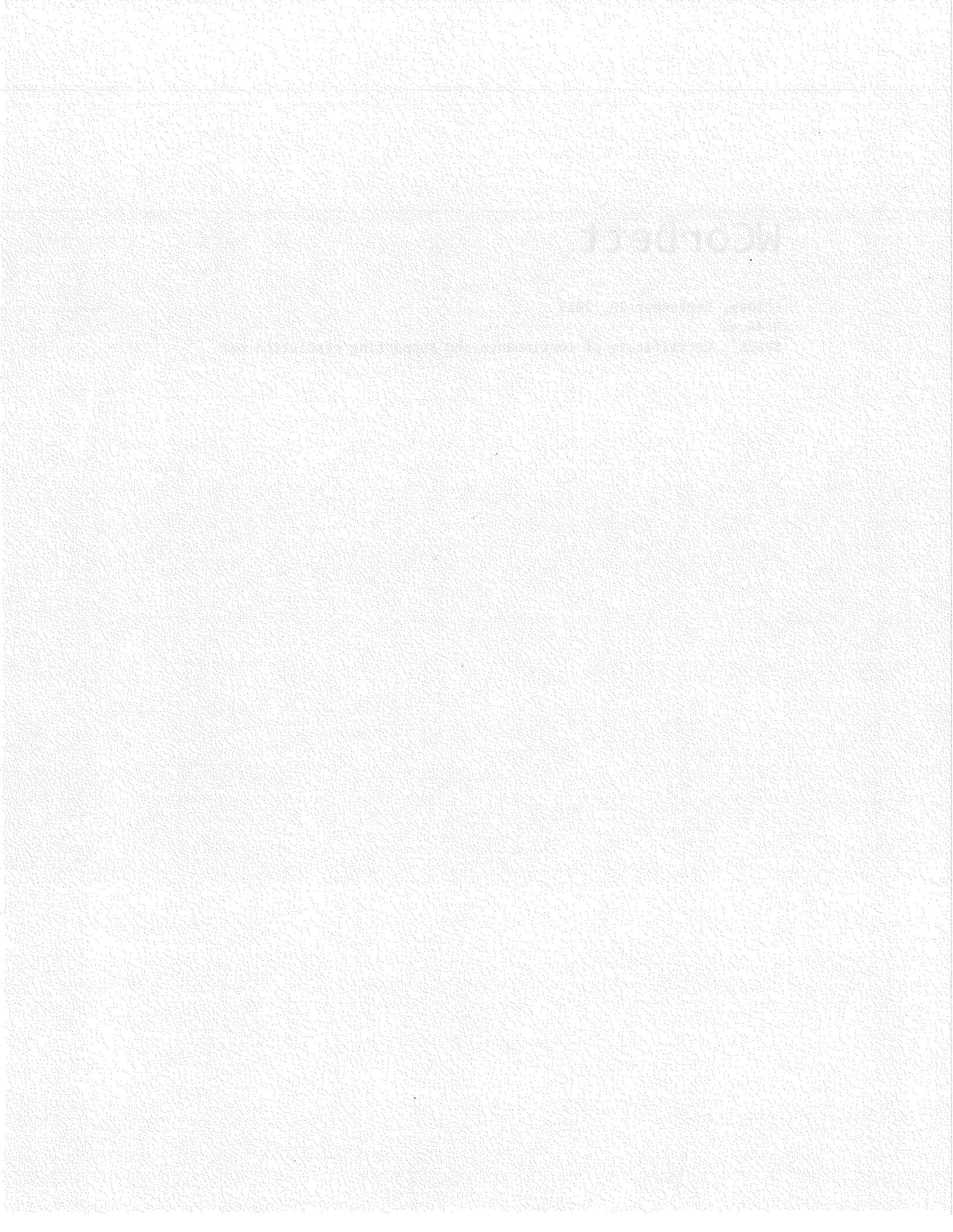
On Jun 15, 2018, at 2:06 PM,  
<personal information removed>

wrote:

Hi Christine,

Further to our meeting this morning,  
do you have any  
questions/comments?

<LM-LSM Outlet -workplan phase  
2.docx.awsec>





# Interlake Reserves Tribal Council, Inc.

September 17, 2018

Manitoba Infrastructure  
Water Management and Structures Division  
2<sup>nd</sup> Floor-280 Broadway Avenue  
Winnipeg, MB R3C 0R8

Attention: Mark Allard, P. Eng.  
Project Director and Acting Executive Director  
Manitoba Infrastructure

Dave Hicks  
Director and Chief Negotiating Officer  
Indigenous and Northern Relations

Dear Mr. Allard and Mr. Hicks:

**RE: PROPOSED LAKE MANITOBA LAKE ST. MARTIN OUTLET CHANNEL PROJECT**

We have received your letter dated September 6, 2018 regarding the above by regular mail on September 12, 2018.

There are some statements in the letter that we are concerned could be interpreted in a manner that does not align with what has occurred in our discussions. We provide this letter in reply.

Specifically, in response to the suggestion in your letter that the IRTC may not have been forthright about First Nation's the IRTC is coordinating with, we informed Manitoba that we would not be coordinating on behalf of Peguis more than a month ago. We also provided a revised work-plan/budget which removed Peguis from our proposal. (Please see attached our August 7 email and workplan.) We did not receive a reply to our August 7 revised plan and followed up by email on August 24, 2018 with Mr. Hicks (copy attached) again requesting a response.

Further, we wish to respond to the following statement in your September 6, 2018 letter:

"Manitoba and your representatives, led by Karl Zadnik, have taken consideration time and effort developing a mutually agreeable budget, work plan, and payment/deliverables schedule for the completion of consultation and traditional land use studies for First Nations represented by the IRTC."

.../2

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HEAD OFFICE  
General Delivery  
Winnipeg, Manitoba  
R3C 0X0  
Phone: (204) 659-4465  
Fax: (204) 659-2147

SUB OFFICE  
105-1555 St. James Street  
Winnipeg, Manitoba  
R3H 1B5  
Phone: (204) 956-7413  
Fax: (204) 942-8840

First, to call the work plan "mutually agreed upon" is misleading. Since the release of the 2018 EIS Guidelines, Mr. Hicks has flatly told us to "take it [the 2017 budget] or leave it", despite significant changes in the scope of the studies required. As we have communicated to Dave Hicks repeatedly, the budget in the 2017 work plan is entirely insufficient to carry out TLU and Cultural Impact studies that align with the scope mandated in the EIS Guidelines. The budget was agreed upon in 2017. The federal EIS Guidelines were released in 2018. The EIS Guidelines mandate what had to be included in Manitoba's EIS, including in the TLU/cultural impact studies. The studies contemplated by the 2017 work plan were much narrower in scope than those that have now been mandated by the EIS Guidelines. As the project proponent, it is Manitoba's responsibility to ensure the studies meet the EIS Guidelines. To date, Manitoba has steadfastly refused to change the budget based on the changed circumstances and scope of studies required. The current budget provides approximately \$20,000 per community for a consultant to carry out and draft TLU studies. We have quotes from three different consultants to conduct a study in line with what is required by CEAA. The lowest quote is over three times the amount allocated for expert assistance in the 2017 budget. We would be happy to share these quotes with Manitoba upon request.

Second, Manitoba has not abided by the payment schedule in the work plan. It has not flowed any money for more than a year in phase 1 of the work plan. For the past year, we have been attempting to engage in good-faith with Manitoba, despite being provided no support to do so. We have incurred expenses for which we are told cannot be paid until the budget has been approved by Manitoba.

The IRTC cannot help but interpret Manitoba's conduct as stonewalling, verging on bad-faith.

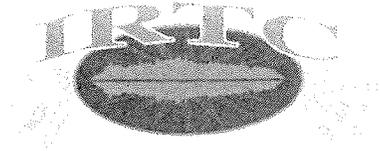
<original signed by>

 Karl Zadnik  
Chief Executive Officer  
INTERLAKE RESERVES TRIBAL COUNCIL

cc. IRTC Board of Directors  
[anna.kessler@canada.ca](mailto:anna.kessler@canada.ca), CEAA  
Lyle Campbell, MI  
Liam Speirs, INR  
Meaghan Conroy, <email address removed>



Nov 30/18



7

### Comments for Proposed Terms of Reference

A project of this magnitude poses real concerns to our communities. Therefore, we appreciate the opportunity to be part of this group. Having perused through the terms of reference, we are satisfied with the level of details in each section. However, there are few concerns/questions – highlighted below – that needs clarification:

- To what extent will comments, feedback, and recommendations provided at the TA meetings be used by the agency in decision making process. And when can we expect to see implementation of feedback. Also, there are concerns that the proponent will not adhere to EIS guidelines in preparing EIS. Preparing an EIS statement requires that collected data – yet to be gathered by proponent – are collated and analysed in order to develop a comprehensive EIS that is in consonance with EIS guidelines. In other words, a thorough traditional knowledge land use study would have to be carried out to achieve this. What, then, are the acceptance criteria for EIS provided by proponent?
- Regularity of TA meetings was not made clear. Once, in person, every quarter? And phone teleconferencing in between – when needed. And can members communicate directly with the chair regarding matters that arise?
- Importantly, as part of the guiding principles, transparency should be incorporated into all dealings.
- On disagreements with content of EIS - understating level of impacts by proponent, for example – what process is in place or what will be put in place to address this.

✓ Thank you for your attention to this, and we hope to pass across further comments that may arise before the inaugural meeting. We look forward to being part of this process.

# DRAFT Terms of Reference

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## Technical Advisory Group for the Federal Environmental Assessment of the Lake Manitoba and Lake St. Martin Outlet Channels Project

### 1.0 Context

The Canadian Environmental Assessment Agency (the Agency) is conducting an environmental assessment of the Lake Manitoba and Lake St. Martin Outlet Channels Project (the Project) under the *Canadian Environmental Assessment, Act 2012* (CEAA 2012).

The Agency will establish and facilitate a technical advisory group to provide advice to the Agency on issues pertaining to the environmental assessment of the Project and a forum for information sharing and discussion during the environmental assessment process.

The technical advisory group will be one of the means by which the Agency obtains advice and feedback during the environmental assessment process and does not replace other opportunities for input to the environmental assessment. Views and comments provided by the public and Indigenous groups during public comment periods will also be considered. The technical advisory group is intended to compliment the federal Crown's activities to fulfill its consultation and accommodation obligations. Participation in the technical advisory group does not constitute agreement or consent to the Project.

The technical advisory group will cease once the Environmental Assessment Report has been provided to the Minister.

### 2.0 Goals and Scope

The technical advisory group will provide members with opportunities to contribute expertise and local and Indigenous knowledge to the review, identify and discuss issues and potential mitigation measures, and potentially influence monitoring and follow-up requirements.

This will be achieved through:

- Information and knowledge sharing;
- Dialogue and input on the Project's potential adverse environmental effects, including the effects of changes to the environment on Indigenous peoples and cumulative effects;
- Enhanced opportunities for input to the environmental assessment of the Project; and
- Effective communication, engagement, and new approaches to integrate Indigenous and local government perspectives into the environmental assessment.

The advice and input will focus on environmental effects and factors within the scope of the environmental assessment as outlined in sections 5 and 19 of CEAA 2012. The Environmental Impact Statement (EIS) Guidelines issued to the proponent by the Agency specify the nature, scope and extent of the information the proponent is required to provide in its EIS. Therefore, the topics identified in the EIS Guidelines will guide the type of the advice sought from the technical advisory group.

Concerns presented to the Agency that fall outside of the scope of the federal environmental assessment will be provided to relevant authorities.

### 3.0 Membership

The technical advisory group will be comprised of representatives of federal and provincial departments, municipalities, Indigenous groups, and other invited entities with a mandate, expertise or knowledge relevant to the review of the Project. Two seats will be available for each member organization to participate in the technical advisory group. The member organization may send alternate representatives and/or bring additional subject matter experts, as needed. The availability of additional seats will be discussed with the technical advisory group chair prior to meetings. Appendix A lists member organizations and representatives.

During the course of the environmental assessment, the Agency will seek and consider advice from the technical advisory group to understand and assess the potential adverse environmental effects associated with the Project. Therefore, it is important that each technical advisory group member:

- is committed to fully participate in the environmental assessment, which includes attending technical advisory group meetings as necessary, and reviewing the environmental assessment documents; and
- has the authority to provide advice to the Agency and the proponent on behalf of their organization.

Upon request, and where agreed to by the technical advisory group, additional non-member parties may attend selected meetings as observers or to present information. The proponent is not a member of the technical advisory group but may be invited to attend technical advisory group meetings to provide information and explain aspects of the Project. The proponent may also engage directly with technical advisory group members to discuss and seek resolution to specific issues.

A facilitator external to the technical advisory group and member organizations may be present to assist with meeting delivery.

## 4.0 Financial Support

The Agency will support the technical advisory group meetings by covering costs associated with meeting venue, facilitation, and meeting records.

Funds for travel for Indigenous members of the technical advisory group may be available to the members who applied for funding through the Agency's Participant Funding Program and signed a contribution agreement with the Agency.

## 5.0 Guiding Principles

The following guiding principles apply to technical advisory group members and to any non-member participants in meetings:

- **Communication and information sharing** – information will be shared freely between the technical advisory group members. Summarized meeting records and documents shared with the technical advisory group will be made publicly available as part of the project file and shared with the proponent. Records of technical advisory group meetings will be provided to members for comment, prior to posting on the Canadian Environmental Assessment Registry.

Documents shared with or provided by members of the technical advisory group through the review process will be made available to the public and the proponent and in accordance with the Agency's policies on information management, provisions of CEAA 2012, and provisions of the Access to Information Act and the Privacy Act.

Participants wishing to share sensitive information with the technical advisory group should discuss this with the Agency in advance so that information can be protected.

- **Relevance** – technical advisory group members will provide advice and information that is within their organization's mandate and that is consistent with their organization's established protocols.
- **Diversity** – the technical advisory group is not a decision making body and consensus among participants is not required for advice-based recommendations. Diverse and differing perspectives may contribute to the discussion and a comprehensive understanding of complex issues. The Agency will consider all input gathered at the technical advisory group meetings in the context of the federal environmental assessment and areas of federal jurisdiction.
- **Protocol** – technical advisory group meetings will be held in a culturally aware and sensitive manner, respecting the diverse backgrounds of members. Opportunities for adherence to protocol and for prayer or ceremony, as agreed upon by members, will be supported.

- **Reciprocal benefits** – members are expected to interpret and communicate their organization's expertise, concerns, policies and requirements within the context of the environmental assessment. Participation should enhance each member's understanding of the potential project effects and mitigation, through sharing of perspectives and open dialogue.
- **Record keeping** – records of technical advisory group meetings will be provided to members for comment, prior to posting on the Canadian Environmental Assessment Registry.
- **Timeliness** – members will respect timelines for the environmental assessment process and the provision of advice and comments. Information about meeting times, locations, and agendas and supporting documents will be shared in a timely manner to allow members to prepare and plan for their participation.

## 6.0 Roles and Responsibilities

The Agency manages the environmental assessment and must ensure that the process is conducted in accordance with CEAA 2012. The Agency will chair the meetings and is responsible for:

- scheduling and planning technical advisory group meetings;
- preparing an agenda for each meeting, incorporating suggestions from the technical advisory group;
- preparing records of the meetings, including any action items;
- posting records on the Canadian Environmental Assessment Registry website; and
- providing information about the environmental assessment process, including timelines and opportunities for review and comment.

Members of the technical advisory group may:

- contribute to the planning of meeting agendas;
- attend meetings prepared to discuss matters on the agenda;
- provide timely advice to the Agency on key environmental assessment documents, including but not limited to the Environmental Impact Statement, supplemental information provided by the proponent, and the draft Environmental Assessment Report and potential conditions;
- provide advice on technical issues that may be raised by the proponent, the public, or Indigenous groups pertaining to the environmental assessment; and
- lead or co-lead sub-groups as necessary, to support focused discussions and collaboration.

## 7.0 Timelines and Workplan

In accordance with CEAA 2012, the Minister must decide no later than 365 days after the Notice of Commencement whether the Project is likely to cause significant adverse environmental effects. This time does not include the time required by the proponent to comply with the necessary information requirements. The Agency will facilitate the environmental assessment process and the participation of the technical advisory group to achieve the legislated timeline.

The Agency will organize meetings as needed, in person or by teleconference, that allow for the participation of all members. To facilitate informed preparation, meeting agendas and materials will be provided one week in advance.

The Agency may choose to form sub-groups or hold topic-specific meetings for focused discussion.

Table 1 provides a list of anticipated key steps in the environmental assessment process and associated technical advisory group activities.

Table 1 - Technical Advisory Group Workplan – Lake Manitoba and Lake St. Martin Outlet Channels Project

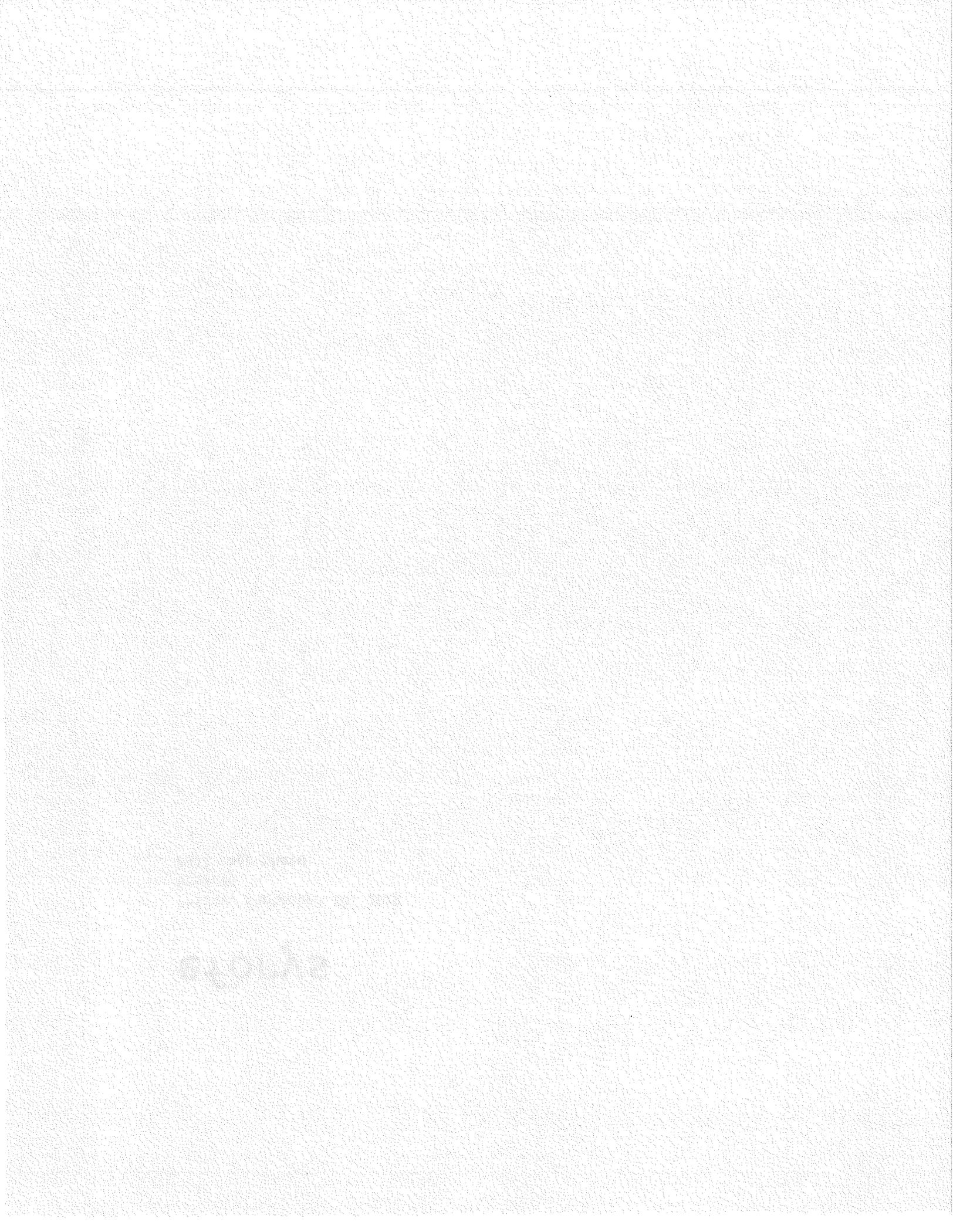
<b>Environmental assessment process</b>	<b>Responsibilities and deliverables of technical advisory group</b>
<p>Step: Establishment of technical advisory group</p> <p>Timing: prior to receipt of Environmental Impact Statement</p>	<p>Review of technical advisory group terms of reference:</p> <ul style="list-style-type: none"> <li>• comments on draft technical advisory group terms of reference;</li> <li>• distribution of final terms of reference</li> </ul> <p>Participation in inaugural meeting:</p> <ul style="list-style-type: none"> <li>• anticipated in-person meeting</li> <li>• information session to review terms of reference, environmental assessment and technical advisory group processes, expectations, timelines, and expertise of members. Broad discussion on the Project and potential pathways of effects.</li> </ul>
<p>Step: Review of Environmental Impact Statement</p> <p>Timing: after Agency acceptance of an Environmental Impact</p>	<p>Possible participation in an information session provided by the proponent to facilitate the review of the Environmental Impact Statement.</p> <p>Review of the Environmental Impact Statement:</p> <ul style="list-style-type: none"> <li>• submission of written comments on the Environmental Impact Statement;</li> </ul>

<p>Statement that conforms with the Environmental Impact Statement Guidelines</p>	<ul style="list-style-type: none"> <li>• provide input to inform the Agency’s development of information requests to address any information gaps in the Environmental Impact Statement; and</li> <li>• review of and advice on proponent responses to information requests, if required.</li> </ul> <p>Possible technical advisory group meetings:</p> <ul style="list-style-type: none"> <li>• anticipated in-person meetings to: <ul style="list-style-type: none"> <li>○ inform review of the Environmental Impact Statement;</li> <li>○ prepare information requests; and</li> <li>○ discuss information request responses</li> </ul> with planning and/or follow-up by teleconference as needed;</li> <li>• focus on evaluation of proponent’s assessment of residual adverse direct and cumulative effects, proposed mitigation measures, monitoring and follow-up, characterization of residual effects, significance analysis, and follow up monitoring; and</li> <li>• discussion of comments received on the environmental impact statement during the comment period.</li> </ul>
<p>Step: Draft Environmental Assessment Report and potential conditions</p> <p>Timing: after technical review of necessary information is complete</p>	<p>Review of the draft Environmental Assessment Report:</p> <ul style="list-style-type: none"> <li>• comments on the draft Environmental Assessment Report.</li> </ul> <p>Possible technical advisory group meeting:</p> <ul style="list-style-type: none"> <li>• anticipated in-person meeting, with planning and/or follow-up by teleconference as needed</li> <li>• discussion of how comments are considered and incorporated in the draft Environmental Assessment Report, including key mitigation and potential conditions.</li> <li>• review of and comment on proposed changes to the Environmental Assessment Report;</li> </ul>
<p>Step: Final Environmental Assessment Report and potential conditions</p> <p>Timing: After Environmental Assessment Report and potential conditions have been submitted to the Minister.</p>	<p>Possible technical advisory group meeting:</p> <ul style="list-style-type: none"> <li>• in person and/or teleconference meeting to share updates and next steps</li> <li>• discussion of technical advisory group lessons learned;</li> </ul>

Appendix A – Technical advisory group Members for the Lake Manitoba and Lake St. Martin Outlet Channels Project

*Membership to be confirmed – list to be included in final terms of reference*





presented / dropped at Dec 17 / 2018 meeting  
w/ ERTC

initial community  
golden report

**LAKE MANITOBA AND LAKE ST. MARTIN OUTLET CHANNELS  
WORK PLAN – OVERVIEW**

PROPOSED BY MANITOBA

Phase 1 – Initial Assessment (Internal)	Timeline – Completed
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**INITIAL ASSESSMENT**

Phase 2 – Consultation and Engagement	Timeline – _Months
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**Objective #1 - INFORMATION SHARING, DISCUSSION, SITE VISIT AND REPORTING:**

Meeting (Initial Presentation on the Proposed Project)

- Purpose: At this meeting Manitoba Infrastructure (MI) will present on the proposed project, including: exact locations, timing and descriptions of the work.

Site Visit

- Purpose: To view traditional areas of use within the project area, to see its current state and identify areas of importance and use that should be avoided or impacts mitigated.

Traditional Knowledge and / or Resource Use

- Purpose: Opportunity for community members to provide information about traditional knowledge and resource use within the proposed project area and to share specific concerns and identify locations on maps where cultural sites, burial sites, hunting, fishing, trapping grounds and species, and medicine and sustenance gathering areas are affected by the proposed project, and to make suggestions for addressing those effects.

**Objective #2 - CONFIRMING CONCERNS AND SUGGESTIONS:**

- Manitoba will:
  - o Prepare a list of all concerns and suggestions communicated to Manitoba, and within 14 days of receipt of the community report send this list to the community to confirm whether Manitoba understood their concerns and suggestions accurately.
- The community will:
  - o Within 14 days of receipt of the Manitoba report, confirm accuracy or correct any inaccuracies in Manitoba's understanding of their concerns and suggestions.

**Objective #3 - SHARE AND DISCUSS THE ENVIRONMENTAL ASSESSMENT, THE ASSESSMENT APPROACH, REPORTING:**

Meeting (Present on the Proposed Project, Environmental Review and Assessment Process)

Meeting (Results of Effects Assessment and Proposed Mitigation)

Meeting (Community Meeting)

**Objective #4 - Conclude Phase 2 Crown-Aboriginal Consultations:**

Community Follow-up: (Present Environmental Impact Statement, and Final Community Comments on Aboriginal and Treaty rights)

Phase 3- Analysis, Reporting and Decision (Internal)	Anticipated duration – 3 months (excluding federal and provincial regulator time required for environmental license decision)
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**Objective #5 - ANALYSIS, REPORTING AND DECISION:**

- Manitoba will:
  - Review the information provided by the community in their Community Consultation Report to understand the information and concerns,
  - Prepare a list of all concerns and suggestions communicated to Manitoba during and as a result of all Phase 2 tasks; and within 30 days of receipt of the community report send this list to the community to confirm whether Manitoba understood their concerns and suggestions accurately.

Phase 4 – Reporting On the Decision	Timeline: Following the Decision Duration: 1 month
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**Objective #6 - REPORTING ON THE DECISION TO THE COMMUNITY:**

- After decision(s) are made, Manitoba will report to Chief and Council:
  - What the decision(s) were,
  - On the consultation and engagement processes and outcomes, including Manitoba's responses to the community's concerns or suggestions,
  - Whether and how Manitoba mitigated, accommodated and addressed their concerns or accepted their suggestions, and if their concerns were not addressed, will provide reasons why.

Meeting (Present Environmental License(s) Conditions)

- Purpose: At this meeting, or by written notification, Manitoba will present the conditions of the federal and provincial environmental licenses and how Manitoba mitigated, accommodated and addressed community concerns or accepted their suggestions, and if their concerns were not addressed, will provide reasons why.



Sent from my Samsung Galaxy smartphone.

----- Original message -----

From: Seetta Roccola <[personal information removed](#)>

Date: 2019-01-10 7:17 PM (GMT-06:00)

: Dave Hicks <[dave.hicks@gov.mb.ca](mailto:dave.hicks@gov.mb.ca)>, "Christine Baljko (MI)" <[christine.baljko@gov.mb.ca](mailto:christine.baljko@gov.mb.ca)>

: 'Karl Zadnik' <[personal information removed](#)> <[personal](#)>

Subject: Proposed Work Plan

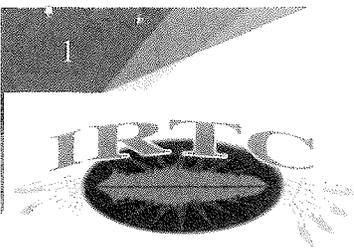
Hello Dave and Christine,

Attached you will find IRTC's response to the Proposed Work Plan that was presented at our December 17, 2018 meeting. Please advise Karl when you are available to meet with us to move forward.

Thanks.

--

Seetta Roccola  
Technical Services/Land Use Planning Manager  
Interlake Reserves Tribal Council



# Interlake Reserves Tribal Council, Inc.

Interlake Reserves Tribal Council  
General Delivery  
Fairford, MB R0C 0X0  
(204) 659-4465

To: MANITOBA INFRASTRUCTURE & INDIGENOUS AND NORTHERN RELATION

cc: Dave Hicks, Christine Baljko, and Liam Speirs

From: Interlake Reserve Tribal Council

Date: January 10, 2019

Re: Channels Project: Proposed consultation workplan from the province – Comments

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## Preliminary matters:

- We note the Province's proposed work-plan assumes there will be no federal, Provincial, or joint federal-provincial hearing on the Project. All of the IRTC's comments about the proposed work-plan are without prejudice to its position that there ought to be a hearing. The IRTC asks the province to confirm that should there be a hearing, the Province and the IRTC will revisit the work-plan.
- The IRTC is strongly of the view that a Project of this magnitude and impact needs to be studied in the context of an independent hearing. A Judicial Review is pending on whether to have a CEAA hearing. Under its legislation, the Province has an obligation to make a decision whether to hold a hearing. To our knowledge, it has not done so yet, and the deadlines set out in the Provincial regulations have passed. When does the Province intend to comply with the Environment Act and its regulations, and decide whether to hold a hearing? When will it inform the IRTC, and others who filed objections to the Environment Act Proposal, of its decision about a hearing?
- How does the Province foresee this work-plan aligning with CEAA's proposed Technical Advisory Committee?
- Confirm that deep consultation and accommodation of the First Nations represented by the IRTC is required before the Project can be approved.

- A concern that the process is being treated as a surface exercise, as one or two meetings here – or a site visit there – are entirely inadequate for a project of this scale.
- Will the Province acknowledge that it understands that meaningful consultation requires:
  - a) *Adequate studies and information:* The parties can have an elaborate consultation process, but without information provided by good studies, the process will be akin to "going through the motions". Effective accommodation measures can't be developed without good baseline information and reliable impact assessments.
  - b) *Independent expert advice:* In order to properly understand the impacts of a project of this magnitude and complexity, the IRTC will require independent expert advice, particularly on matters related to hydrology and aquatic life.
  - c) *Community led Cultural Impact Assessments/TLU studies:* It is very important to the IRTC and its member Nations that the Cultural Impact Assessments/TLU studies to be included in the EIS are led by them, and conducted by experts of their choice.
  - d) *A transparent and flexible process.* Manitoba's willingness to discuss its proposed work-plan with First Nations is a welcome development, as is its commitment to provide a consultation log for the IRTC to review. The IRTC would also suggest regular (perhaps monthly) reporting in the form of a consultation log to be reviewed by the parties for accuracy
  - e) *Reasonable, predictable resourcing of consultation activities:* First, it is unfair and entirely against the spirit of consultation for the proponent to arbitrarily withhold previously agreed upon consultation funding. For example, based on a 2017 work-plan, the IRTC expected some funding from the Province to support its consultation activities. Yet for the past 18 months, the Province has withheld consultation funding from the IRTC. The IRTC needs to be able to trust that the Province will not use project consultation funding as a weapon. Second, the IRTC will require adequate funding to participate in the consultation process, including funding for Cultural Impact Assessments/TLU studies and to hire technical experts so they can understand the project and its impacts.
- *Flooding of Reserve Lands:* If the Channels are approved as planned, and are later used to divert flood waters, reserve lands will be flooded. Accordingly, we ask the Province to confirm that the EIS will include detailed information about expected on-reserve flooding, and an impact assessment (environmental, cultural, and social impact) of this

flooding. The IRTC also requests information on the process the Province intends to follow to obtain reserve land easements, including information on how the Province foresees this process will align with the provincial and federal regulatory processes.

- *Socio-Economic Study – co-management*: Is the Province committed to co-management of the Socio-economic studies? If not, how does the Province foresee studying our community members in a respectful manner?

## **Comments specific to proposed to new workplan**

### **Phase 1: Initial assessment – Complete**

#### **Phase 2: Consultation and Engagement**

Objective #1 – Information sharing, discussion, site visit, and reporting

The hiring of an external consultant by the province to coordinate this process appears to be a good step in the right direction. However, there are certain aspects in the process that must be community -led. Also, as agreed with the province, the comments provided here are high level (just as the proposed process is) and details (activities) will be worked out in the coming weeks. The following paragraphs are comments specific to each section in the proposed process.

Meeting – The purpose of the meeting gives the impression that project has been approved and that all parties are in unison/agreement. Instead, we'd like to see issues like the following discussed:

- why the province thinks these channels will alleviate the flooding, and what if it doesn't?
- What is the plan to involve our communities in the project work? considering we have a joint venture
- What are the proposed impacts: positive and negative?

Site visit – Site visitation will be led by our communities, and will be done during traditional knowledge land use studies carried out by IRTC.

Traditional knowledge and/or Resource use - This particular section is needed by the proponent in developing a comprehensive Environmental Impact Statement. To clarify, we refer the proponent to page 10 on the EIS guidelines, which explicitly states:

“ The assessment of environmental effects on Aboriginal peoples, pursuant to paragraph 5(1)(c) of CEAA 2012, will undergo the same rigour and type of assessment as any other 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”

Therefore, in order to provide this information to the proponent, IRTC will be leading traditional land use studies, and co-manage socio-economic studies, heritage surveys, and cultural impact assessments, as mandated in the EIS guidelines. This study will be community led. To do this, each community will have a coordinator to assist in coordination of resources, and a staff member (or consultant hired by IRTC) to oversee the study. This study will take into cognizance EIS guidelines, which means scope of study/work will be reflective of what is contained in these guidelines. Thereafter, activities and budget will be detailed out. And we intend to work in close coordination with the external consultant hired by the proponent to oversee the entire consultation process. To emphasize, A TLU/cultural impact assessment for each affected First is critical to inform the consultation process and to inform the development of accommodation measures. The IRTC's member nations are willing to share their traditional knowledge with the proponent. Respectful sharing of information includes studies led by the IRTC and the member Nations, with experts of their choice. Site visits or ground-truthing will be incorporated into these First-Nation Specific TLU studies as necessary, and as determined by each community. The EIS Guidelines mandate the required scope of the TLU studies. And based

on proposals collected by the IRTC for TLU studies that align with the EIS Guidelines, we understand these studies will take approximately 8 to 12 months to complete<sup>1</sup>.

Objective #2- Confirming concerns and suggestions

We propose that two separate reports be produced in this section: first, report from initial meeting (or meetings, as required). Second, report from traditional knowledge/resource use studies – which will be progressively elaborated, as studies might still be ongoing at this stage of the process.

Objective #3 - Share and discuss the environmental assessment, the assessment approach, reporting.

No comments.

Objective #4 – Conclude phase 2 crown -aboriginal consultation

No comments

### **Phase 3: Analysis, reporting, and decision**

Objective #5 – Analysis, reporting and decision

*Discussion on how the Province will address and accommodate concerns:* The IRTC sees a serious gap in objectives 5 and 6 of the proposed process. It says the Province will prepare a list of the concerns and ask the communities to confirm the list is accurate. Following which, it appears, the Province will unilaterally determine how to address those concerns and inform the communities of the conditions in the approval/licence.

**Absent is any process to develop accommodation measures or conditions with the First Nations.** A failure to engage in a back-and-forth with First Nations on requested accommodations measures was one of the reasons the Federal Court of Appeal set-aside the Trans Mountain Pipeline approval.

*Co-development of mitigation, avoidance, off-set and other accommodation measures:* To discharge the duty to consult, the process needs to include a process to co-develop mitigation, avoidance, off-

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<sup>1</sup> 8 to 12 months starting from the time the contract with the consultant is signed. All consultants require at least 50% of the budget up front to begin their work. Funding will need to be allocated accordingly

set and other accommodation measures. The IRTC and its member Nations want to work with the Province and CEAA, as *real partners* (not simply stakeholders to provide 'comments' on conditions predetermined by the province) in jointly developing the following:

- Conditions included in any project approvals/licences
- Other avoidance, mitigation or off-set measures outside of the regulatory process. This would include discussions on economic benefits arising from the Project.

IRTC will provide proponent with final report from studies, which can then be added to proponent's final report.

#### **Phase 4: Reporting on the decision to the community**

Objective #6 – Reporting on decision to the community

No mention of EIS in this phase. The assumption is that an EIS report will be produced. And so, we would like to review the final EIS before it is sent to CEAA.

#### **Concluding comments**

The understanding is that the “workplan -overview” is a high level break down, and that specific details will be parsed later on. As a result, the comments highlighted above will be subject to a breakdown, as well. Further more, we are concerned with the use of certain phrases throughout the text. For instance, on page 1, paragraph 3, it states: “opportunity for community members to provide information.....” This is could be interpreted to mean “a lucky chance or an option”. The duty to consult is not an option. It is an obligation and an opportunity for the province(proponent) to engage our communities. Also, last paragraph on page 2, it states: “.... and if concerns were not addressed, will provide reasons why”. This simply means solutions to concerns will not be provided. So, we hope to clarify all these – and more - at the next meeting.



# Manitoba

## Indigenous and Northern Relations

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January 29, 2019

Karl Zadnik  
Chief Executive Officer  
Interlake Reserves Tribal Council, Inc.  
Unit 105-1555 St. James Street  
Winnipeg MB R3H 1B5

*Note:  
meeting  
notes  
not  
attached*



Dear Mr. Zadnik:

### Lake Manitoba - Lake St. Martin Outlet Channels Project – Options for Consultation Process

Thank you for meeting with us on December 17, 2018. I have enclosed a copy of the meeting notes for your review and record.

We have received your letter dated January 10, 2019. Manitoba's responses to the "Preliminary matters" you raised are attached in a chart at the end of this letter.

We have also enclosed a revised work plan that reflects your January 10, 2019 "Comments specific to proposed new work plan", where reasonable.

*How should we move the consultation process forward (coordinated through IRTC or direct with FNs)?*

Since August 2017, the IRTC has coordinated the consultation process between Manitoba and the First Nation members of the IRTC. The IRTC-coordinated approach was preferred for efficiency reasons as all six IRTC First Nations were included in one consultation process coordinated by the IRTC. There were also common issues shared among the six First Nations where a coordinated approach made practical sense.

Pinaymootang, Little Saskatchewan and Peguis First Nations have since informed Manitoba that they prefer that Manitoba consult with their individual First Nations directly.

Dauphin River, Kinonjeoshtegon and Lake Manitoba First Nations have not communicated whether they would still like to participate in an IRTC-coordinated consultation process or a direct Manitoba-First Nation process.

With the departure of three of the six First Nations, an IRTC-coordinated consultation does not appear to achieve the efficiencies originally anticipated.

Chart responding to "Preliminary matters" in IRTC's January 10, 2019 letter

"Preliminary Matters"	Manitoba's Responses
<ul style="list-style-type: none"> <li>We note the Province's proposed work-plan assumes there will be no federal, Provincial, or joint federal-provincial hearing on the Project. All of the IRTC's comments about the proposed work-plan are without prejudice to its position that there ought to be a hearing. The IRTC asks the province to confirm that should there be a hearing, the Province and the IRTC will revisit the work-plan.</li> </ul>	<p>Under section 12(5)(e) and 12(6) of <i>The Environment Act</i>, the minister of Sustainable Development may cause the Clean Environment Commission to hold public hearings. If the minister of Sustainable Development exercises that authority, then the Clean Environment Commission must conduct the hearings in accordance with any terms of reference specified by the minister. Any funding related to those hearings are outside of this workplan. The Clean Environment Commission may have its own participant funding, which IRTC may apply for.</p> <p>Under section 38(1) of the <i>Canadian Environmental Assessment Act, 2012</i>, the federal minister may refer the environmental assessment to a review panel. Under section 43(1)(c) of that Act, a review panel must, in accordance with its terms of reference, hold public hearings. Any funding related to those hearings are outside of this workplan. Any public hearings under this federal Act may have its own participant funding, which IRTC may apply for.</p> <p>This workplan is for Manitoba's direct Crown-indigenous consultations. Any public hearings pursuant to <i>The Environment Act</i> or the <i>Canadian Environmental Assessment Act, 2012</i>, do not have any bearing on this work plan.</p>
<ul style="list-style-type: none"> <li>The IRTC is strongly of the view that a Project of this magnitude and impact needs to be studied in the context of an independent hearing. A Judicial Review is pending on whether to have a CEAA hearing. Under its legislation, the Province has an obligation to make a decision whether to hold a hearing. To our knowledge, it has not done so yet, and the deadlines set out in the Provincial regulations have passed. When does the Province intend to comply with the Environment Act and its regulations, and</li> </ul>	<p>Manitoba cannot comment on whether there would be a hearing under the <i>Canadian Environmental Assessment Act, 2012</i> or not. We are familiar with the judicial review application by IRTC to the Federal Court. Manitoba will wait for the outcome of the court's process.</p> <p>Under section 12(5)(e) and 12(6) of <i>The Environment Act</i>, the minister of Sustainable Development "may" cause the Clean Environment Commission to hold public hearings.</p>

	<p>Manitoba has assessed the level of consultation for Lake Manitoba First Nation in the “lower” part of the consultation spectrum. Based on their location in relation to the construction and operation of the channel or the construction of the road, this First Nation does not appear to be significantly affected.</p>
<ul style="list-style-type: none"> <li>• A concern that the process is being treated as a surface exercise, as one or two meetings here – or a site visit there – are entirely inadequate for a project of this scale.</li> <li>• Will the Province acknowledge that it understands that meaningful consultation requires: <ul style="list-style-type: none"> <li>a) <i>Adequate studies and information: ...</i></li> <li>b) <i>Independent expert advice: ...</i></li> <li>c) <i>Community led Cultural Impact Assessments/TLU studies: ...</i></li> <li>d) <i>A transparent and flexible process. ...</i></li> <li>e) <i>Reasonable, predictable resourcing of consultation activities: ...</i></li> </ul> </li> </ul>	<p>Meaningful consultation operates in a factual context. Some meaningful consultations might require the items IRTC has listed. Other meaningful consultation might not.</p> <p>Manitoba considers the proposed workplan to provide a reasonable process so that meaningful consultation takes place.</p> <p>Where necessary, Manitoba’s intention is to make its internal experts available to explain technical issues in plain language, so that meaningful dialogue takes place.</p> <p>The workplan allows for a transparent and flexible process so that meaningful consultation occurs.</p> <p>While Manitoba consults with communities through a direct Crown-Indigenous consultation process, Manitoba considers the information gathered through other processes (including the federal and provincial regulatory processes under the <i>Canadian Environmental Assessment Act</i> and <i>The Environment Act</i>). So any studies or assessments under those two regulatory processes will inform the provincial Crown. Manitoba does not consider duplication of studies or assessments (when such assessment are conducted under another process) to be reasonable.</p>
<ul style="list-style-type: none"> <li>• <i>Flooding of Reserve Lands: If the Channels are approved as planned, and are later used to divert flood waters, Reserve lands will be flooded. Accordingly, we ask the Province to confirm that the EIS will include detailed information about expected on-Reserve</i></li> </ul>	<p>Manitoba Infrastructure expects the EIS to have considered whether any reserve lands might be flooded.</p>

# Manitoba

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January 29, 2019

Karl Zadnik  
Chief Executive Officer  
Interlake Reserves Tribal Council, Inc.  
Unit 105-1555 St. James Street  
Winnipeg MB R3H 1B5

*Note:  
meeting  
notes  
not  
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Dear Mr. Zadnik:

### Lake Manitoba - Lake St. Martin Outlet Channels Project – Options for Consultation Process

Thank you for meeting with us on December 17, 2018. I have enclosed a copy of the meeting notes for your review and record.

We have received your letter dated January 10, 2019. Manitoba's responses to the "Preliminary matters" you raised are attached in a chart at the end of this letter.

We have also enclosed a revised work plan that reflects your January 10, 2019 "Comments specific to proposed new work plan", where reasonable.

*How should we move the consultation process forward (coordinated through IRTC or direct with FNs)?*

Since August 2017, the IRTC has coordinated the consultation process between Manitoba and the First Nation members of the IRTC. The IRTC-coordinated approach was preferred for efficiency reasons as all six IRTC First Nations were included in one consultation process coordinated by the IRTC. There were also common issues shared among the six First Nations where a coordinated approach made practical sense.

Pinaymootang, Little Saskatchewan and Peguis First Nations have since informed Manitoba that they prefer that Manitoba consult with their individual First Nations directly.

Dauphin River, Kinonjeoshtegon and Lake Manitoba First Nations have not communicated whether they would still like to participate in an IRTC-coordinated consultation process or a direct Manitoba-First Nation process.

With the departure of three of the six First Nations, an IRTC-coordinated consultation does not appear to achieve the efficiencies originally anticipated.

With the remaining three First Nations, the contents or topics of consultation are different and specific to their own individual First Nations. An IRTC-coordinated approach would have to be individualized to each of these three First Nations as they are affected by different aspects of the project. The same presentation, the same site visit or the same traditional knowledge information would not be relevant to all three First Nations.

We value the relationship we have developed with IRTC. We also appreciate the work accomplished so far.

We also respect the decisions of First Nations and are conscious of the Crown's duty of consultation and accommodation to each of these three remaining First Nations.

For these reasons, it appears there are two options to move forward:

1. through an IRTC-coordinated consultation on behalf of Dauphin River, Kinonjeoshtegon and Lake Manitoba First Nations, or
2. through direct Manitoba-Dauphin River, Manitoba-Kinonjeoshtegon and Manitoba-Lake Manitoba consultation processes.

We are asking the IRTC and each of Dauphin River, Kinonjeoshtegon and Lake Manitoba First Nation's Chief and Council to guide us which option they prefer.

We are also sending similar letters to the Chiefs and Council of those three First Nations, seeking their direction.

In the event any of the three First Nations direct Manitoba to consult with them directly, Manitoba must follow their direction.

Please respond by **February 15, 2019** on which option to move forward.

In the event we do not hear from you by that time, Manitoba will organize the first "Community Meeting (Initial Presentation on the Proposed Project) directly with the individual communities.

Sincerely,

<original signed by>

<original signed by>

 Mark Allard, P. Eng.  
Project Director and Acting Executive Director  
Manitoba Infrastructure

 Geoff Sarenchuk  
Acting Director, Consultation and Reconciliation  
Indigenous and Northern Relations

Attachments

cc. Chief Cornell McLean, IRTC  
Chief and Council of Dauphin River First Nation  
Chief and Council of Kinonjeoshtegon First Nation  
Chief and Council of Lake Manitoba First Nation

Chart responding to "Preliminary matters" in IRTC's January 10, 2019 letter

"Preliminary Matters"	Manitoba's Responses
<ul style="list-style-type: none"> <li>We note the Province's proposed work-plan assumes there will be no federal, Provincial, or joint federal-provincial hearing on the Project. All of the IRTC's comments about the proposed work-plan are without prejudice to its position that there ought to be a hearing. The IRTC asks the province to confirm that should there be a hearing, the Province and the IRTC will revisit the work-plan.</li> </ul>	<p>Under section 12(5)(e) and 12(6) of <i>The Environment Act</i>, the minister of Sustainable Development may cause the Clean Environment Commission to hold public hearings. If the minister of Sustainable Development exercises that authority, then the Clean Environment Commission must conduct the hearings in accordance with any terms of reference specified by the minister. Any funding related to those hearings are outside of this workplan. The Clean Environment Commission may have its own participant funding, which IRTC may apply for.</p> <p>Under section 38(1) of the <i>Canadian Environmental Assessment Act, 2012</i>, the federal minister may refer the environmental assessment to a review panel. Under section 43(1)(c) of that Act, a review panel must, in accordance with its terms of reference, hold public hearings. Any funding related to those hearings are outside of this workplan. Any public hearings under this federal Act may have its own participant funding, which IRTC may apply for.</p> <p>This workplan is for Manitoba's direct Crown-indigenous consultations. Any public hearings pursuant to <i>The Environment Act</i> or the <i>Canadian Environmental Assessment Act, 2012</i>, do not have any bearing on this work plan.</p>
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<p>decide whether to hold a hearing? When will it inform the IRTC, and others who filed objections to the Environment Act Proposal, of its decision about a hearing?</p>	<p>Public hearings, however, are not mandatory under this Act.</p> <p>The regulatory process under <i>The Environment Act</i> is separate from this direct Crown-Indigenous consultation process. We contacted Mr. Bruce Webb at the Environmental Approvals Branch, who informed us that at this time there has not been any decisions in relation to a public hearing.</p>
<ul style="list-style-type: none"> <li>• How does the Province foresee this work-plan aligning with CEAA's proposed Technical Advisory Committee?</li> </ul>	<p>This work plan is strictly for provincial Crown-Indigenous consultation process.</p> <p>All information generated through the implementation of this work plan will form part of Manitoba Infrastructure's Environmental Impact Statement (EIS) which would be submitted to CEAA. However, this work plan does not articulate any tasks that might be conducted by CEAA's proposed Technical Advisory Committee. Manitoba anticipates that any tasks for CEAA's Technical Advisory Committee would be outlined by the Canadian Environmental Assessment Agency.</p>
<ul style="list-style-type: none"> <li>• Confirm that <u>deep consultation</u> and accommodation of the First Nations represented by the IRTC is required before the Project can be approved.</li> </ul>	<p>Manitoba must consult "meaningfully" with all communities.</p> <p>Manitoba has assessed the level of consultation for Dauphin River First Nation on the "middle to high" part of the consultation spectrum. This First Nation might be affected by the construction and operation of the two channels. It is also located on Lake Winnipeg, which any change in water level would be of interest to this community.</p> <p>Manitoba has assessed the scope of consultation for Kinonjeoshtegon around the "middle" of the consultation spectrum. The content of consultation with this community will likely focus on the all-weather road component of the project. Kinonjeoshtegon is also on Lake Winnipeg and might be concerned about any effects related to that lake.</p>

	<p>Manitoba has assessed the level of consultation for Lake Manitoba First Nation in the “lower” part of the consultation spectrum. Based on their location in relation to the construction and operation of the channel or the construction of the road, this First Nation does not appear to be significantly affected.</p>
<ul style="list-style-type: none"> <li>• A concern that the process is being treated as a surface exercise, as one or two meetings here – or a site visit there – are entirely inadequate for a project of this scale.</li> <li>• Will the Province acknowledge that it understands that meaningful consultation requires: <ul style="list-style-type: none"> <li>a) <i>Adequate studies and information: ...</i></li> <li>b) <i>Independent expert advice: ...</i></li> <li>c) <i>Community led Cultural Impact Assessments/TLU studies: ...</i></li> <li>d) <i>A transparent and flexible process. ...</i></li> <li>e) <i>Reasonable, predictable resourcing of consultation activities: ...</i></li> </ul> </li> </ul>	<p>Meaningful consultation operates in a factual context. Some meaningful consultations might require the items IRTC has listed. Other meaningful consultation might not.</p> <p>Manitoba considers the proposed workplan to provide a reasonable process so that meaningful consultation takes place.</p> <p>Where necessary, Manitoba’s intention is to make its internal experts available to explain technical issues in plain language, so that meaningful dialogue takes place.</p> <p>The workplan allows for a transparent and flexible process so that meaningful consultation occurs.</p> <p>While Manitoba consults with communities through a direct Crown-Indigenous consultation process, Manitoba considers the information gathered through other processes (including the federal and provincial regulatory processes under the <i>Canadian Environmental Assessment Act</i> and <i>The Environment Act</i>). So any studies or assessments under those two regulatory processes will inform the provincial Crown. Manitoba does not consider duplication of studies or assessments (when such assessment are conducted under another process) to be reasonable.</p>
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<p>flooding, and an impact assessment (environmental, cultural, and social impact) of this flooding. The IRTC also requests information on the process the Province intends to follow to obtain Reserve land easements, including information on how the Province foresees this process will align with the provincial and federal regulatory processes.</p>	
<ul style="list-style-type: none"> <li>• <i>Socio-Economic Study – co-management</i>: Is the Province committed to co-management of the Socio-economic studies? If not, how does the Province foresee studying our community members in a respectful manner?</li> </ul>	<p>Manitoba Infrastructure will conduct all of its studies for the purpose of environmental assessments, including any socio-economic study in a respectful manner with the communities. We do not know what is meant by “co-managing” a socio-economic study.</p>



# Interlake Reserves Tribal Council, Inc.

February 7, 2019

Geoff Sarenchuk  
Acting Director, Consultation and  
Reconciliation  
Manitoba Indigenous and Northern Relations  
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Email: [Geoff.Sarenchuk@gov.mb.ca](mailto:Geoff.Sarenchuk@gov.mb.ca)

Mark Allard,  
Project Director And acting Executive Director  
Manitoba Infrastructure  
6<sup>th</sup> Floor – 215 Garry Street  
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Email: [Mark.Allard@gov.mb.ca](mailto:Mark.Allard@gov.mb.ca)

Dear Geoff and Mark:

## Re: Lake Manitoba & Lake St. Martin Channels Project

This is in response to your January 29, 2019 letter and its attachments regarding the Channels Project.

### *IRTC's Role*

In response to comments about the IRTC's role, we attach Band Council Resolutions from our communities - Lake Manitoba, Little Saskatchewan, Kinonjeoshtegon and Dauphin River First Nations - confirming the IRTC is authorized to be our consultation and study coordinator for matters related to provincial consultations on the Channels Project. As we told Manitoba in January and August 2018, Pinaymootang and Peguis respectively, have decided to consult independently of the IRTC. We respect and support their decision.

A First Nation is entitled to authorize an organization to represent them for the purposes of consultation.<sup>1</sup> With respect, it is not up to Manitoba to decide who our Nations authorize to be the point of contact for consultation. That is our decision.

From the perspective of Lake Manitoba, Little Saskatchewan, Kinonjeoshtegon and Dauphin River, there are significant efficiencies in working together. These efficiencies are particularly

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important given the Province has not provided any consultation funding for more than a year, contrary to the agreement signed in 2017.

We cannot help but interpret the Province's refusal to flow funding for consultation for more than a year, along with its suggestion that our member First Nations not coordinate, as an effort to divide and conquer and a transparent attempt to withdraw from the 2017 funding agreement.

### *Questions regarding Manitoba's Responses*

Thank you for providing a response to the "preliminary matters" raised in our January 10, 2019 memo.

Please provide clarification on the following:

a. *Traditional Knowledge and Resource Use Reports/Cultural Impact Assessments:*

- i. The scope of the Traditional Knowledge and Resource Use Report needs to align with the EIS guidelines. This means that it needs to be scoped to include lands and waters directly and indirectly impacted by the Project. Given the broad geographical scope of impacts arising from changing water flows, the "project area" is too narrow a scope.
- ii. Where an Indigenous community is willing to share its traditional knowledge for the purposes of an EIS, CEAA's policies strongly encourage community-led studies. As shared at our December meeting, based on the estimates we have collected, a report that fulfills the EIS Guidelines will cost in the range of \$100,000 to \$150,000 per First Nation, and will take at least six months to complete. Our communities are anxious to share information about their land use to ensure that their interests and rights are taken into account. Yet these studies have not started. Delays in starting these studies are entirely due to the Province's failure to flow any funding for them. The responses provided in the January 29 letter don't provide any clarity on this crucial issue. Assessing impacts on Treaty and Aboriginal cannot be an afterthought. It is extremely important to our communities that our interests are considered in this process and we need studies in order for that to happen.

Please confirm whether or not the Province, as the Project Proponent, will provide reasonable funding for a community-led Traditional Knowledge and Resource Use Reports/Cultural Impact Assessments, that meet the EIS Guidelines; or does the Province intend to use its own staff to conduct Traditional Knowledge and Resource Use Reports/Cultural Impact Assessments?

- b. *Internal experts:* Manitoba says it will consider making internal experts available to First Nations to explain technical issues. The IRTC objects to having to rely on experts chosen

by the Province to understand technical issues. Our interests are not necessarily aligned with yours. The IRTC requires independent expert advice, particularly on issues concerning the fishery and surface water. As explained at our meeting, the IRTC is open to working with other First Nations and organizations to pool resources to hire these experts and realize cost efficiencies.

Please clarify whether Manitoba will provide any funding (as part of consultation funding or otherwise) for First Nations to hire their own technical advisors/experts? Is Manitoba suggesting that it will provide internal experts in lieu of providing funding for First Nation to hire experts of our choosing? If so, please send us the CVs of all the internal experts the province seeks to rely on, including any internal experts on traditional land use.

- c. *Environment Act* Process: Information generated through the *Environment Act* and CEAA Process will inform the consultation and accommodation process to an extent. Accordingly, we ask that INR help us obtain information from other Provincial departments in a timely way. Specifically, we request the following information:
- i) When will a decision be made about whether a hearing will be held by the Clean Environment Commission (or a joint hearing with CEAA)? We note that under the *Licensing Procedures Regulation*, section 7 and section 12(6) of the *Environment Act*, the Minister had a deadline of mid-August, 2018 to make a decision about whether to hold a hearing.
  - ii) When will Mr. Webb send us the information we requested? Our lawyer first asked for information in June, 2018 and has made several requests since, the last one being in early December 2018. Mr. Webb continually responds with a promises to get it to us in a 'couple of weeks'. It has been seven months and nothing has been provided. Please obtain and send this information to the IRTC.
- d. *Socio-economic study*: You say that MI will conduct all of the studies for the EIS, including the socio-economic study. Please provide the name and CV of those experts within MI who will conduct this study.

With respect to your question about "co-managing" a socio-economic study, we were referring to the need for First Nations and technical advisors chosen by us to be involved in shaping the study's scope and methods, particularly as it relates to the study of socio-economic impacts of the Project on First Nations.

### ***Meeting Minutes and Consultation Log***

Your January 29 letter referred to draft minutes from our December 17, 2018 meeting. These draft minutes were not enclosed with the letter.

Additionally, at our December meeting (and many times before that) we asked that Manitoba to share its consultation log detailing communications between the province and the IRTC/our member First Nations starting from day one of engagement on this Project. We also suggested that a log be provided thereafter on a regular basis (perhaps monthly). The purpose of sharing the log is so we can provide input and ensure that the entries accurately reflect what transpired. At our December meeting, the officials from Manitoba agreed to share the consultation log.

Please send the draft December 17, 2018 meeting minutes and the consultation logs to our Executive Director, Karl Zadnik, <personal information removed>

### **Summary of Questions and Requests.**

- Confirm whether or not the Province will provide any funding for a community-led Traditional Knowledge and Resource Use Reports/Cultural Impact Assessments, to be led by a consult hired by the communities/IRTC.
- Does the Province intend to use its own staff to conduct Traditional Knowledge and Resource Use Reports/Cultural Impact Assessments?
- Clarify whether Manitoba will provide any funding to First Nations to hire experts independent of the Province to enable communities' to meaningfully participate in consultation?
- Please send us CVs of all the internal experts the province seeks to rely on, including any internal experts on traditional land use and those experts who will lead the socio-economic study.
- When will a decision be made about whether a hearing will be held by the Clean Environment Commission?
- Please ask Mr. Webb to send the information we requested in the summer of 2018?
- Please send the draft December 17, 2018 meeting minutes
- Please send Manitoba's consultation logs as requested.

Sincerely,

<original signed by>

**Cornell McLean**  
Chairman, IRTC  
Chief, Lake Manitoba First Nation

<original signed by>

**Hector Shorting** ✓  
Board Member, IRTC  
Chief, Little Saskatchewan First Nation

<original signed by>

**John Stagg**  
Board Member, IRTC  
Chief, Dauphin River First Nation

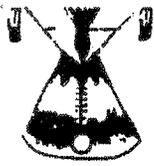
<original signed by>

**Dave Traverse**  
Board Member, IRTC  
Kinonjeoshtegon First Nation

*Enclosures*

- 4 BCR's (Lake Manitoba, Little Saskatchewan, Kinonjeoshtegon and Dauphin River) authorizing the IRTC as the point of contact for consultation
- January 29, 2019 letter from MI and Indigenous Relations to IRTC and attachments
- January 10, 2019 letter from IRTC to MI and Indigenous Relations
- Draft Work Plan Overview, provided to IRTC at December 17, 2018 meeting

CC: Anna Kessler, CEAA, [anna.kessler@canada.ca](mailto:anna.kessler@canada.ca)  
Dave Hicks, [Dave.Hicks@gov.mb.ca](mailto:Dave.Hicks@gov.mb.ca)  
Christine Baljko, [Christine.Baljko@gov.mb.ca](mailto:Christine.Baljko@gov.mb.ca)  
Liam Speirs, [Liam.Speirs@gov.mb.ca](mailto:Liam.Speirs@gov.mb.ca)  
Bruce Webb, [Bruce.Webb@gov.mb.ca](mailto:Bruce.Webb@gov.mb.ca)  
Sara Bahir, Manitoba Justice, [Sarah.Bahir@gov.mb.ca](mailto:Sarah.Bahir@gov.mb.ca)  
Meaghan Conroy, MLT Aikins LLP, [mconroy@mltaikins.com](mailto:mconroy@mltaikins.com)



# LITTLE SASKATCHEWAN FIRST NATION

Box 98  
Gypsumville, MB R0C 1J0

Tel: (204) 659-4584  
Fax: (204) 659-2071

## BAND COUNCIL RESOLUTION

### Council of Little Saskatchewan First Nation

**WHEREAS** a quorum of the Chief and Council ("**Council**") of the Little Saskatchewan First Nation (the "**First Nation**") met at a duly convened meeting on the 10th day of January 2019.

**AND WHEREAS** pursuant to the First Nation's inherent right to self-government, and pursuant to the powers granted to Council under the *Indian Act*, Council is empowered to make decisions on behalf of the membership of the First Nation.

**AND WHEREAS** the First Nation and its members collectively hold constitutionally protected Treaty and Aboriginal rights, pursuant to section 35 of the Constitution Act, 1982.

**AND WHEREAS** the membership of the Interlake Reserves Tribal Council ("**IRTC**") is comprised of Dauphin River First Nation, Kinonjeoshtegon First Nation, Lake Manitoba First Nation, Little Saskatchewan First Nation, Peguis First Nation, and the Pinaymootang First Nation (collectively, "**IRTC First Nations**"). The IRTC's objectives include the advancement of the collective well-being of the aforementioned First Nations.

**AND WHEREAS** Manitoba Infrastructure intends to construct the Lake Manitoba and Lake St. Martin Outlet Channels Project ("**Project**"). The Canadian Environmental Assessment Agency commenced an environmental assessment of the proposed Project on March 14, 2018. Manitoba Infrastructure submitted an *Environmental Act* Proposal to Manitoba Sustainable Development on May 10, 2018.

**AND WHEREAS** the IRTC entered into a Crown-Aboriginal Consultation Agreement with Her Majesty the Queen in right of the Province of Manitoba, on August 10, 2017, to provide consultation funding to enable certain IRTC First Nations to meaningfully participate in consultation.

**AND WHEREAS** since then, the leadership of Peguis First Nation and Pinaymootang First Nation have decided to consult with province about the Project independently of the IRTC.

**AND WHEREAS** on December 20, 2018, Lake Manitoba First Nation, Kinonjeoshtegon First Nation, Lake Manitoba First Nation, and Little Saskatchewan First Nation re-confirmed their desire to work together on Project consultations with the Province of Manitoba and with respect to developing a Traditional Land Use study/cultural impact study for each of their Nations.

**AND WHEREAS** the First Nation wishes to confirm that the IRTC represents and is authorized to act on behalf of the First Nation with respect to Project consultations with the Province of Manitoba and its respective departments and agencies.

**THEREFORE BE IT RESOLVED THAT:**

1. The Little Saskatchewan First Nation ("**First Nation**") hereby confirms that the IRTC represents the First Nation with respect Project related consultation with the Province of Manitoba.
2. The IRTC will act in the role of consultation and study coordinator. The First Nation will work with the IRTC to ensure that its community-specific views and concerns are included in the Project consultation process. The IRTC will coordinate the TLU/Cultural Impact studies in collaboration with the First Nation.
3. All capacity funding from the Province of Manitoba allocated to the First Nation for: the Project consultations, TLU/Cultural Impact studies, expert or technical advice, will be paid directly to the IRTC to use on behalf of the First Nation. The IRTC may approach the First Nation to request funding for Project-related consultation steps that are not funded by third parties, including any court challenges with respect to the Project.
4. The IRTC will provide regular reports on Project consultation to the leadership of the First Nation, and seek direction on strategy from the First Nation through IRTC Board meetings, which are attended by all Chiefs of the IRTC First Nations.
5. On request of the First Nation, the IRTC will provide copies of any documents provided to the Province of Manitoba in the process of Project-related consultation, including all correspondence, submissions and financial reporting records.
6. Nothing in this Band Council is to be interpreted or construed as consent by the First Nation to the Project.
7. The execution and delivery by Chief Hector Shorting of all agreements with respect to Project related consultation with the Province, as well as any other documents contemplated thereunder, together with any changes to such agreements and documents

that the Chief shall approve in their sole discretion, such approval being evidenced by his or her execution thereof, are hereby approved, authorized, ratified and confirmed.

Dated this 10th day of January 2019.

Quorum: <original signed by>

<original signed by>

<original signed by>



# Lake Manitoba Treaty 2 First Nation

**CHIEF CORNELL McLEAN**

**COUNCILLOR PRESTON SWAN**

**COUNCILLOR JOSEPH MAYTWAYASHING**

**COUNCILLOR DWIGHT PAUL**

**COUNCILLOR FLORENCE McLEAN**

\*\*\*\*\*

## BAND COUNCIL RESOLUTION

### Council of Lake Manitoba First Nation

**WHEREAS** a quorum of the Chief and Council ("Council") of the Lake Manitoba First Nation (the "First Nation") met at a duly convened meeting on the 10th day of January 2019.

**AND WHEREAS** pursuant to the First Nation's inherent right to self-government, and pursuant to the powers granted to Council under the *Indian Act*, Council is empowered to make decisions on behalf of the membership of the First Nation.

**AND WHEREAS** the First Nation and its members collectively hold constitutionally protected Treaty and Aboriginal rights, pursuant to section 35 of the Constitution Act, 1982.

**AND WHEREAS** the membership of the Interlake Reserves Tribal Council ("IRTC") is comprised of Dauphin River First Nation, Kinonjeoshtegon First Nation, Lake Manitoba First Nation, Little Saskatchewan First Nation, Peguis First Nation, and the Pinaymootang First Nation (collectively, "IRTC First Nations"). The IRTC's objectives include the advancement of the collective well-being of the aforementioned First Nations.

**AND WHEREAS** Manitoba Infrastructure intends to construct the Lake Manitoba and Lake St. Martin Outlet Channels Project ("Project"). The Canadian Environmental Assessment Agency commenced an environmental assessment of the proposed Project on March 14, 2018. Manitoba Infrastructure submitted an *Environmental Act* Proposal to Manitoba Sustainable Development on May 10, 2018.

**AND WHEREAS** the IRTC entered into a Crown-Aboriginal Consultation Agreement with Her Majesty the Queen in right of the Province of Manitoba, on August 10, 2017, to provide consultation funding to enable certain IRTC First Nations to meaningfully participate in consultation.

**AND WHEREAS** since then, the leadership of Peguis First Nation and Pinaymootang First Nation have decided to consult with province about the Project independently of the IRTC.

**AND WHEREAS** on December 20, 2018, Lake Manitoba First Nation, Kinonjeoshtegon First Nation, Dauphin River First Nation, and Little Saskatchewan First Nation re-confirmed their desire to work together on Project consultations with the Province of Manitoba and with respect to developing a Traditional Land Use study/cultural impact study for each of their Nations.

**AND WHEREAS** the First Nation wishes to confirm that the IRTC represents and is authorized to act on behalf of the First Nation with respect to Project consultations with the Province of Manitoba and its respective departments and agencies.

**THEREFORE BE IT RESOLVED THAT:**

1. The Lake Manitoba First Nation ("**First Nation**") hereby confirms that the IRTC represents the First Nation with respect Project related consultation with the Province of Manitoba.
2. The IRTC will act in the role of consultation and study coordinator. The First Nation will work with the IRTC to ensure that its community-specific views and concerns are included in the Project consultation process. The IRTC will coordinate the TLU/Cultural Impact studies in collaboration with the First Nation.
3. All capacity funding from the Province of Manitoba allocated to the First Nation for: the Project consultations, TLU/Cultural Impact studies, expert or technical advice, will be paid directly to the IRTC to use on behalf of the First Nation. The IRTC may approach the First Nation to request funding for Project-related consultation steps that are not funded by third parties, including any court challenges with respect to the Project.
4. The IRTC will provide regular reports on Project consultation to the leadership of the First Nation, and seek direction on strategy from the First Nation through IRTC Board meetings, which are attended by all Chiefs of the IRTC First Nations.
5. On request of the First Nation, the IRTC will provide copies of any documents provided to the Province of Manitoba in the process of Project-related consultation, including all correspondence, submissions and financial reporting records.
6. Nothing in this Band Council is to be interpreted or construed as consent by the First Nation to the Project.
7. The execution and delivery by Chief John Stagg of all agreements with respect to Project related consultation with the Province, as well as any other documents contemplated thereunder, together with any changes to such agreements and documents that the Chief

shall approve in their sole discretion, such approval being evidenced by his or her execution thereof, are hereby approved, authorized, ratified and confirmed.

Dated this 10th day of January 2019.

Quorum: 3 <original signed by>

<original signed by>

\_\_\_\_\_  
<original signed by>

\_\_\_\_\_  
<original signed by>



**KINONJEOSHTEGON**  
**FIRST NATION**

Box 210 Dallas, Manitoba R0C 0S0  
Phone (204) 394-2258  
Fax (204) 394-2305

**BAND COUNCIL RESOLUTION**

**Council of Kinonjeoshtegon First Nation**

**WHEREAS** a quorum of the Chief and Council ("Council") of the Kinonjeoshtegon First Nation (the "First Nation") met at a duly convened meeting on the 10th day of January 2019.

**AND WHEREAS** pursuant to the First Nation's inherent right to self-government, and pursuant to the powers granted to Council under the *Indian Act*, Council is empowered to make decisions on behalf of the membership of the First Nation.

**AND WHEREAS** the First Nation and its members collectively hold constitutionally protected Treaty and Aboriginal rights, pursuant to section 35 of the Constitution Act, 1982.

**AND WHEREAS** the membership of the Interlake Reserves Tribal Council ("IRTC") is comprised of Dauphin River First Nation, Kinonjeoshtegon First Nation, Lake Manitoba First Nation, Little Saskatchewan First Nation, Peguis First Nation, and the Pinaymootang First Nation (collectively, "IRTC First Nations"). The IRTC's objectives include the advancement of the collective well-being of the aforementioned First Nations.

**AND WHEREAS** Manitoba Infrastructure intends to construct the Lake Manitoba and Lake St. Martin Outlet Channels Project ("Project"). The Canadian Environmental Assessment Agency commenced an environmental assessment of the proposed Project on March 14, 2018. Manitoba Infrastructure submitted an *Environmental Act* Proposal to Manitoba Sustainable Development on May 10, 2018.

**AND WHEREAS** the IRTC entered into a Crown-Aboriginal Consultation Agreement with Her Majesty the Queen in right of the Province of Manitoba, on August 10, 2017, to provide consultation funding to enable certain IRTC First Nations to meaningfully participate in consultation.

**AND WHEREAS** since then, the leadership of Peguis First Nation and Pinaymootang First Nation have decided to consult with province about the Project independently of the IRTC.

**AND WHEREAS** on December 20, 2018, Lake Manitoba First Nation, Kinonjeoshtegon First Nation, Lake Manitoba First Nation, and Little Saskatchewan First Nation re-confirmed their desire to work together on Project consultations with the Province of Manitoba and with respect to developing a Traditional Land Use study/cultural impact study for each of their Nations.

**AND WHEREAS** the First Nation wishes to confirm that the IRTC represents and is authorized to act on behalf of the First Nation with respect to Project consultations with the Province of Manitoba and its respective departments and agencies.

**THEREFORE BE IT RESOLVED THAT:**

1. The Kinonjeoshtegon First Nation ("First Nation") hereby confirms that the IRTC represents the First Nation with respect Project related consultation with the Province of Manitoba.
2. The IRTC will act in the role of consultation and study coordinator. The First Nation will work with the IRTC to ensure that its community-specific views and concerns are included in the Project consultation process. The IRTC will coordinate the TLU/Cultural Impact studies in collaboration with the First Nation.
3. All capacity funding from the Province of Manitoba allocated to the First Nation for: the Project consultations, TLU/Cultural Impact studies, expert or technical advice, will be paid directly to the IRTC to use on behalf of the First Nation. The IRTC may approach the First Nation to request funding for Project-related consultation steps that are not funded by third parties, including any court challenges with respect to the Project.
4. The IRTC will provide regular reports on Project consultation to the leadership of the First Nation, and seek direction on strategy from the First Nation through IRTC Board meetings, which are attended by all Chiefs of the IRTC First Nations.
5. On request of the First Nation, the IRTC will provide copies of any documents provided to the Province of Manitoba in the process of Project-related consultation, including all correspondence, submissions and financial reporting records.
6. Nothing in this Band Council is to be interpreted or construed as consent by the First Nation to the Project.
7. The execution and delivery by Chief Dave Traverse of all agreements with respect to Project related consultation with the Province, as well as any other documents contemplated thereunder, together with any changes to such agreements and documents

that the Chief shall approve in their sole discretion, such approval being evidenced by his or her execution thereof, are hereby approved, authorized, ratified and confirmed.

Dated this 10th day of January 2019.

<original signed by>

Quorum:

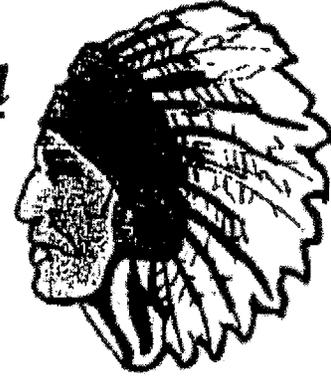
  
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# Dauphin River First Nation



## BAND COUNCIL RESOLUTION

### Council of Dauphin River First Nation

**WHEREAS** a quorum of the Chief and Council ("Council") of the Dauphin River First Nation (the "First Nation") met at a duly convened meeting on the 10th day of January 2019.

**AND WHEREAS** pursuant to the First Nation's inherent right to self-government, and pursuant to the powers granted to Council under the *Indian Act*, Council is empowered to make decisions on behalf of the membership of the First Nation.

**AND WHEREAS** the First Nation and its members collectively hold constitutionally protected Treaty and Aboriginal rights, pursuant to section 35 of the Constitution Act, 1982.

**AND WHEREAS** the membership of the Interlake Reserves Tribal Council ("IRTC") is comprised of Dauphin River First Nation, Kinonjeoshtegon First Nation, Lake Manitoba First Nation, Little Saskatchewan First Nation, Peguis First Nation, and the Pinaymootang First Nation (collectively, "IRTC First Nations"). The IRTC's objectives include the advancement of the collective well-being of the aforementioned First Nations.

**AND WHEREAS** Manitoba Infrastructure intends to construct the Lake Manitoba and Lake St. Martin Outlet Channels Project ("Project"). The Canadian Environmental Assessment Agency commenced an environmental assessment of the proposed Project on March 14, 2018. Manitoba Infrastructure submitted an *Environmental Act* Proposal to Manitoba Sustainable Development on May 10, 2018.

**AND WHEREAS** the IRTC entered into a Crown-Aboriginal Consultation Agreement with Her Majesty the Queen in right of the Province of Manitoba, on August 10, 2017, to provide consultation funding to enable certain IRTC First Nations to meaningfully participate in consultation.

**AND WHEREAS** since then, the leadership of Peguis First Nation and Pinaymootang First Nation have decided to consult with province about the Project independently of the IRTC.

**AND WHEREAS** on December 20, 2018, Dauphin River First Nation, Kinonjeoshtegon First Nation, Lake Manitoba First Nation, and Little Saskatchewan First Nation re-confirmed their desire to work together on Project consultations with the Province of Manitoba and with respect to developing a Traditional Land Use study/cultural impact study for each of their Nations.

**AND WHEREAS** the First Nation wishes to confirm that the IRTC represents and is authorized to act on behalf of the First Nation with respect to Project consultations with the Province of Manitoba and its respective departments and agencies.

**THEREFORE BE IT RESOLVED THAT:**

1. The Dauphin River First Nation ("**First Nation**") hereby confirms that the IRTC represents the First Nation with respect Project related consultation with the Province of Manitoba.
2. The IRTC will act in the role of consultation and study coordinator. The First Nation will work with the IRTC to ensure that its community-specific views and concerns are included in the Project consultation process. The IRTC will coordinate the TLU/Cultural Impact studies in collaboration with the First Nation.
3. All capacity funding from the Province of Manitoba allocated to the First Nation for: the Project consultations, TLU/Cultural Impact studies, expert or technical advice, will be paid directly to the IRTC to use on behalf of the First Nation. The IRTC may approach the First Nation to request funding for Project-related consultation steps that are not funded by third parties, including any court challenges with respect to the Project.
4. The IRTC will provide regular reports on Project consultation to the leadership of the First Nation, and seek direction on strategy from the First Nation through IRTC Board meetings, which are attended by all Chiefs of the IRTC First Nations.
5. On request of the First Nation, the IRTC will provide copies of any documents provided to the Province of Manitoba in the process of Project-related consultation, including all correspondence, submissions and financial reporting records.
6. Nothing in this Band Council is to be interpreted or construed as consent by the First Nation to the Project.
7. The execution and delivery by Chief John Stagg of all agreements with respect to Project related consultation with the Province, as well as any other documents contemplated thereunder, together with any changes to such agreements and documents that the Chief shall approve in their sole discretion, such approval being evidenced by his or her execution thereof, are hereby approved, authorized, ratified and confirmed.

Dated this 10th day of January 2019.

Quorum: 2  
<original signed by>

<original signed by>

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\_\_\_\_\_  
\_\_\_\_\_

Consultation and Reconciliation Branch  
400 - 352 Donald Street  
Winnipeg, Manitoba, Canada R3B 2H8  
T 204-945-2510 F 204-948-2274  
www.manitoba.ca

January 29, 2019

Karl Zadnik  
Chief Executive Officer  
Interlake Reserves Tribal Council, Inc.  
Unit 105-1555 St. James Street  
Winnipeg MB R3H 1B5

Dear Mr. Zadnik:

**Lake Manitoba - Lake St. Martin Outlet Channels Project –  
Options for Consultation Process**

Thank you for meeting with us on December 17, 2018. I have enclosed a copy of the meeting notes for your review and record.

We have received your letter dated January 10, 2019. Manitoba's responses to the "Preliminary matters" you raised are attached in a chart at the end of this letter.

We have also enclosed a revised work plan that reflects your January 10, 2019 "Comments specific to proposed new work plan", where reasonable.

*How should we move the consultation process forward (coordinated through IRTC or direct with FNs)?*

Since August 2017, the IRTC has coordinated the consultation process between Manitoba and the First Nation members of the IRTC. The IRTC-coordinated approach was preferred for efficiency reasons as all six IRTC First Nations were included in one consultation process coordinated by the IRTC. There were also common issues shared among the six First Nations where a coordinated approach made practical sense.

Pinaymootang, Little Saskatchewan and Peguis First Nations have since informed Manitoba that they prefer that Manitoba consult with their individual First Nations directly.

Dauphin River, Kinonjeoshtegon and Lake Manitoba First Nations have not communicated whether they would still like to participate in an IRTC-coordinated consultation process or a direct Manitoba-First Nation process.

With the departure of three of the six First Nations, an IRTC-coordinated consultation does not appear to achieve the efficiencies originally anticipated.

With the remaining three First Nations, the contents or topics of consultation are different and specific to their own individual First Nations. An IRTC-coordinated approach would have to be individualized to each of these three First Nations as they are affected by different aspects of the project. The same presentation, the same site visit or the same traditional knowledge information would not be relevant to all three First Nations.

We value the relationship we have developed with IRTC. We also appreciate the work accomplished so far.

We also respect the decisions of First Nations and are conscious of the Crown's duty of consultation and accommodation to each of these three remaining First Nations.

For these reasons, it appears there are two options to move forward:

1. through an IRTC-coordinated consultation on behalf of Dauphin River, Kinonjeoshtegon and Lake Manitoba First Nations, or
2. through direct Manitoba-Dauphin River, Manitoba-Kinonjeoshtegon and Manitoba-Lake Manitoba consultation processes.

We are asking the IRTC and each of Dauphin River, Kinonjeoshtegon and Lake Manitoba First Nation's Chief and Council to guide us which option they prefer.

We are also sending similar letters to the Chiefs and Council of those three First Nations, seeking their direction.

In the event any of the three First Nations direct Manitoba to consult with them directly, Manitoba must follow their direction.

Please respond by **February 15, 2019** on which option to move forward.

In the event we do not hear from you by that time, Manitoba will organize the first "Community Meeting (Initial Presentation on the Proposed Project) directly with the individual communities.

Sincerely,

<original signed by>

<original signed by>

 Mark Allard, P. Eng.  
Project Director and Acting Executive Director  
Manitoba Infrastructure

Geoff Sarenchuk  
Acting Director, Consultation and Reconciliation  
Indigenous and Northern Relations

Attachments

cc. Chief Cornell McLean, IRTC  
Chief and Council of Dauphin River First Nation  
Chief and Council of Kinonjeoshtegon First Nation  
Chief and Council of Lake Manitoba First Nation

Chart responding to "Preliminary matters" in IRTC's January 10, 2019 letter

"Preliminary Matters"	Manitoba's Responses
<ul style="list-style-type: none"> <li>We note the Province's proposed work-plan assumes there will be no federal, Provincial, or joint federal-provincial hearing on the Project. All of the IRTC's comments about the proposed work-plan are without prejudice to its position that there ought to be a hearing. The IRTC asks the province to confirm that should there be a hearing, the Province and the IRTC will revisit the work-plan.</li> </ul>	<p>Under section 12(5)(e) and 12(6) of <i>The Environment Act</i>, the minister of Sustainable Development may cause the Clean Environment Commission to hold public hearings. If the minister of Sustainable Development exercises that authority, then the Clean Environment Commission must conduct the hearings in accordance with any terms of reference specified by the minister. Any funding related to those hearings are outside of this workplan. The Clean Environment Commission may have its own participant funding, which IRTC may apply for.</p> <p>Under section 38(1) of the <i>Canadian Environmental Assessment Act, 2012</i>, the federal minister may refer the environmental assessment to a review panel. Under section 43(1)(c) of that Act, a review panel must, in accordance with its terms of reference, hold public hearings. Any funding related to those hearings are outside of this workplan. Any public hearings under this federal Act may have its own participant funding, which IRTC may apply for.</p> <p>This workplan is for Manitoba's direct Crown-indigenous consultations. Any public hearings pursuant to <i>The Environment Act</i> or the <i>Canadian Environmental Assessment Act, 2012</i>, do not have any bearing on this work plan.</p>
<ul style="list-style-type: none"> <li>The IRTC is strongly of the view that a Project of this magnitude and impact needs to be studied in the context of an independent hearing. A Judicial Review is pending on whether to have a CEAA hearing. Under its legislation, the Province has an obligation to make a decision whether to hold a hearing. To our knowledge, it has not done so yet, and the deadlines set out in the Provincial regulations have passed. When does the Province intend to comply with the Environment Act and its regulations, and</li> </ul>	<p>Manitoba cannot comment on whether there would be a hearing under the <i>Canadian Environmental Assessment Act, 2012</i> or not. We are familiar with the judicial review application by IRTC to the Federal Court. Manitoba will wait for the outcome of the court's process.</p> <p>Under section 12(5)(e) and 12(6) of <i>The Environment Act</i>, the minister of Sustainable Development "may" cause the Clean Environment Commission to hold public hearings.</p>

<p>decide whether to hold a hearing? When will it inform the IRTC, and others who filed objections to the Environment Act Proposal, of its decision about a hearing?</p>	<p>Public hearings, however, are not mandatory under this Act.</p> <p>The regulatory process under <i>The Environment Act</i> is separate from this direct Crown-Indigenous consultation process. We contacted Mr. Bruce Webb at the Environmental Approvals Branch, who informed us that at this time there has not been any decisions in relation to a public hearing.</p>
<ul style="list-style-type: none"> <li>• How does the Province foresee this work-plan aligning with CEAA's proposed Technical Advisory Committee?</li> </ul>	<p>This work plan is strictly for provincial Crown-Indigenous consultation process.</p> <p>All information generated through the implementation of this work plan will form part of Manitoba Infrastructure's Environmental Impact Statement (EIS) which would be submitted to CEAA. However, this work plan does not articulate any tasks that might be conducted by CEAA's proposed Technical Advisory Committee. Manitoba anticipates that any tasks for CEAA's Technical Advisory Committee would be outlined by the Canadian Environmental Assessment Agency.</p>
<ul style="list-style-type: none"> <li>• Confirm that <u>deep consultation</u> and accommodation of the First Nations represented by the IRTC is required before the Project can be approved.</li> </ul>	<p>Manitoba must consult "meaningfully" with all communities.</p> <p>Manitoba has assessed the level of consultation for Dauphin River First Nation on the "middle to high" part of the consultation spectrum. This First Nation might be affected by the construction and operation of the two channels. It is also located on Lake Winnipeg, which any change in water level would be of interest to this community.</p> <p>Manitoba has assessed the scope of consultation for Kinonjeoshtegon around the "middle" of the consultation spectrum. The content of consultation with this community will likely focus on the all-weather road component of the project. Kinonjeoshtegon is also on Lake Winnipeg and might be concerned about any effects related to that lake.</p>

	<p>Manitoba has assessed the level of consultation for Lake Manitoba First Nation in the “lower” part of the consultation spectrum. Based on their location in relation to the construction and operation of the channel or the construction of the road, this First Nation does not appear to be significantly affected.</p>
<ul style="list-style-type: none"> <li>• A concern that the process is being treated as a surface exercise, as one or two meetings here – or a site visit there – are entirely inadequate for a project of this scale.</li> <li>• Will the Province acknowledge that it understands that meaningful consultation requires: <ul style="list-style-type: none"> <li>a) <i>Adequate studies and information: ...</i></li> <li>b) <i>Independent expert advice: ...</i></li> <li>c) <i>Community led Cultural Impact Assessments/TLU studies: ...</i></li> <li>d) <i>A transparent and flexible process. ...</i></li> <li>e) <i>Reasonable, predictable resourcing of consultation activities: ...</i></li> </ul> </li> </ul>	<p>Meaningful consultation operates in a factual context. Some meaningful consultations might require the items IRTC has listed. Other meaningful consultation might not.</p> <p>Manitoba considers the proposed workplan to provide a reasonable process so that meaningful consultation takes place.</p> <p>Where necessary, Manitoba’s intention is to make its internal experts available to explain technical issues in plain language, so that meaningful dialogue takes place.</p> <p>The workplan allows for a transparent and flexible process so that meaningful consultation occurs.</p> <p>While Manitoba consults with communities through a direct Crown-Indigenous consultation process, Manitoba considers the information gathered through other processes (including the federal and provincial regulatory processes under the <i>Canadian Environmental Assessment Act</i> and <i>The Environment Act</i>). So any studies or assessments under those two regulatory processes will inform the provincial Crown. Manitoba does not consider duplication of studies or assessments (when such assessment are conducted under another process) to be reasonable.</p>
<ul style="list-style-type: none"> <li>• <i>Flooding of Reserve Lands: If the Channels are approved as planned, and are later used to divert flood waters, Reserve lands will be flooded. Accordingly, we ask the Province to confirm that the EIS will include detailed information about expected on-Reserve</i></li> </ul>	<p>Manitoba Infrastructure expects the EIS to have considered whether any reserve lands might be flooded.</p>

<p>flooding, and an impact assessment (environmental, cultural, and social impact) of this flooding. The IRTC also requests information on the process the Province intends to follow to obtain Reserve land easements, including information on how the Province foresees this process will align with the provincial and federal regulatory processes.</p>	
<ul style="list-style-type: none"> <li>• <i>Socio-Economic Study – co-management:</i> Is the Province committed to co-management of the Socio-economic studies? If not, how does the Province foresee studying our community members in a respectful manner?</li> </ul>	<p>Manitoba Infrastructure will conduct all of its studies for the purpose of environmental assessments, including any socio-economic study in a respectful manner with the communities. We do not know what is meant by “co-managing” a socio-economic study.</p>

# LAKE MANITOBA AND LAKE ST. MARTIN OUTLET CHANNELS WORK PLAN – OVERVIEW

PROPOSED BY MANITOBA

Phase 1 – Initial Assessment (Internal)	Timeline – Completed
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## INITIAL ASSESSMENT

Phase 2 – Consultation and Engagement	Timeline – X number of Months
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### **OBJECTIVE #1 - INFORMATION SHARING, DISCUSSION, SITE VISIT AND REPORTING (BY DATE):**

#### COMMUNITY MEETING (INITIAL PRESENTATION ON THE PROPOSED PROJECT) BY DATE

**PURPOSE:** At this meeting Manitoba Infrastructure (MI) will present on the proposed project, including: the need for the project, exact locations, timing, descriptions of the work, initial assessment of potential effects on exercise of rights, economic opportunities for interested communities, and what community information/concerns Manitoba has so far.

Manitoba and the Community would also at this meeting determine who may assist the community with conducting the "Site Visit" and "Traditional Knowledge and Resource Use". It should be a person with experience in working with elders and indigenous resource users to assist the community with "Site Visit" and gather "Traditional Knowledge and Resource Use" in relation to this project and prepare a report, which report would be submitted to the Chief and Council of the community and to Manitoba.

**OUTCOME:** Manitoba will share the meeting notes with the community.

#### SITE VISIT (REPORT BY DATE/SAME DATE AS BELOW)

**PURPOSE:** To view traditional areas of use within the project area, to see its current state and identify areas of importance and use that should be avoided or impacts mitigated. Conducted at the same time as Traditional Knowledge and Resource Use.

**OUTCOME:** The community/person assisting the community will include the results of the Site Visit in the same report as Traditional Knowledge and Resource Use. This report is to be provided to the Chief and Council of the Community and Manitoba.

#### TRADITIONAL KNOWLEDGE AND RESOURCE USE (REPORT BY DATE/SAME DATE AS ABOVE)

**PURPOSE:** Opportunity for community members to provide information about traditional knowledge and resource use within the proposed project area and to share specific concerns and identify locations on maps where cultural sites, burial sites, hunting, fishing, trapping grounds and species, and medicine and sustenance gathering areas are affected by the proposed project, and to make suggestions for addressing those effects.

COMMUNITY MEETING (RESULTS OF MI'S EFFECTS ASSESSMENT (REMAINING TOPICS) AND PROPOSED MITIGATION)

PURPOSE: same as above.

OUTCOME: same as above outcome

All information up to this point will be reflected in the Environmental Impact Statement (EIS) that MI must file with CEAA and Sustainable Development.

Phase 2 - Post EIS consultation (external) Phase 3 - Analysis, Reporting & Decision (Internal)	Anticipated duration – 3 months (excluding federal and provincial regulator time required for environmental license decision)
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**OBJECTIVE #4 - CONCLUDE PHASE 2 OF CROWN CONSULTATION (EXTERNAL):**

COMMUNITY MEETING (PRESENT THE EIS & SEEK COMMUNITY'S INPUT)

PURPOSE: (a) to assist the community understand the EIS and chapters relevant to exercise of rights, (b) whether and how MI incorporated community's input into the EIS, (c) discuss and obtain community's input on how MI proposes to address their concerns, (d) whether Manitoba learned of any new effects related to exercise of rights as a result of the EIS, (e) discuss community's concerns about those potentially new effects, and (f) other [determine additional contents of the meeting closer to the time].

PROCESS & OUTCOME:

The EIS is a technical document prepared for review by two regulatory authorities: (1) Manitoba Sustainable Development – Environmental Approvals Branch, and (2) the Canadian Environmental Assessment Agency). After MI (the proponent) submits its EIS with these two authorities, the regulatory environmental review processes begin.

Manitoba's regulatory environmental review process includes a technical review by the Technical Advisory Committee (TAC), which consists of provincial and federal government specialists who are able to provide technical expertise. These specialists are independent from MI (which is the proponent for this project). The role of these specialists is to review the EIS from their specialist perspective (i.e. wildlife, fishery, hydrology etc.) and provide their technical comment or advice to the provincial environmental review process (to Sustainable Development – Environmental Approvals Branch) on whether MI/proponent's effects assessment and mitigation measures satisfy any concerns in their technical area.

For this community meeting, Manitoba is considering to make these internal specialists/experts available to explain the technical information to the community and answer any questions raised. Manitoba anticipates technical expertise in the area of wildlife, fisheries, hydrology and engineering to be of interest to the community.

Manitoba will share meeting notes and a chart reflecting (a) community's concerns so far (b) MI's/Crown proponent's measures to address those concerns (c) Manitoba/Crown regulator's



## Indigenous and Northern Relations

Consultation and Reconciliation Branch  
400 - 352 Donald Street  
Winnipeg, Manitoba, Canada R3B 2H8  
T 204-945-2510 F 204-948-2274  
www.manitoba.ca

January 29, 2019

Chief John Stagg  
Dauphin River First Nation  
PO Box 58  
Gypsumville MB R0C 1J0

Dear Chief Stagg:

### **Lake Manitoba - Lake St. Martin Outlet Channels Project – Options for Consultation Process**

We have copied you on our letter to the Interlake Reserves Tribal Council (IRTC), dated January 29, 2019 (attached).

Manitoba has a duty to consult with your community before making an Environment Act licensing decision for the proposed Lake Manitoba and Lake St. Martin Outlet Channels Project.

With this letter, we are seeking direction from you on whether your community would like to be consulted:

1. through an IRTC-coordinated consultation on behalf of your community; or
2. through a direct process with Manitoba.

Regardless of the option selected, the consultation will focus on the components of the project that might adversely affect your First Nation.

The attached work plan is for the IRTC-coordinated approach, where the IRTC would coordinate the consultation process for Dauphin River, Kinonjeoshtegon and Lake Manitoba First Nations. Should your community want to be consulted directly, the attached work plan will be modified specific to your community.

Please provide us with your direction by **February 15, 2019** so that we may continue the implementation of the Crown's duty with your community.

In the event we do not hear from you by that time, Manitoba will contact you to organize the first "Community Meeting (Initial Presentation on the Proposed Project)" directly with your community by the end of February.

Sincerely,

<original signed by>

Mark Allard, P. Eng.  
Project Director and Acting Executive Director  
Manitoba Infrastructure

Geoff Sarenchuk  
Acting Director, Consultation and Reconciliation  
Indigenous and Northern Relations

Attachments

c: Karl Zadnik, CEO IRTC



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www.manitoba.ca

January 29, 2019

Chief David Traverse  
Kinonjeoshtegon First Nation  
PO Box 210  
Dallas MB R0C 0S0

Dear Chief Traverse:

### **Lake Manitoba - Lake St. Martin Outlet Channels Project – Options for Consultation Process**

We have copied you on our letter to the Interlake Reserves Tribal Council (IRTC), dated January 29, 2019 (attached).

Manitoba has a duty to consult with your community before making an Environment Act licensing decision for the proposed Lake Manitoba and Lake St. Martin Outlet Channels Project.

With this letter, we are seeking direction from you on whether your community would like to be consulted:

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Sincerely,

<original signed by>

Mark Allard, P. Eng.  
Project Director and Acting Executive Director  
Manitoba Infrastructure

 Geoff Sarenchuk  
Acting Director, Consultation and Reconciliation  
Indigenous and Northern Relations

Attachments

cc. Karl Zadnik, CEO IRTC



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T 204-945-2510 F 204-948-2274  
www.manitoba.ca

January 29, 2019

Chief Cornell McLean  
Lake Manitoba First Nation  
PO Box 1250  
Lake Manitoba First Nation MB R0C 3K0

Dear Chief McLean:

### Lake Manitoba - Lake St. Martin Outlet Channels Project – Options for Consultation Process

We have copied you on our letter to the Interlake Reserves Tribal Council (IRTC), dated January 29, 2019 (attached).

Manitoba has a duty to consult with your community before making an Environment Act licensing decision for the proposed Lake Manitoba and Lake St. Martin Outlet Channels Project.

With this letter, we are seeking direction from you on whether your community would like to be consulted:

1. through an IRTC-coordinated consultation on behalf of your community; or
2. through a direct process with Manitoba.

Regardless of the option selected, the consultation will focus on the components of the project that might adversely affect your First Nation.

The attached work plan is for the IRTC-coordinated approach, where the IRTC would coordinate the consultation process for Dauphin River, Kinonjeoshtegon and Lake Manitoba First Nations. Should your community want to be consulted directly, the attached work plan will be modified specific to your community.

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<original signed by>

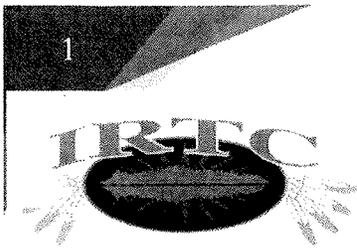
Sincerely,

Mark Allard, P. Eng.  
Project Director and Acting Executive Director  
Manitoba Infrastructure

Geoff Sarenchuk  
Acting Director, Consultation and Reconciliation  
Indigenous and Northern Relations

Attachments

cc. Karl Zadnik, CEO IRTC



# Interlake Reserves Tribal Council, Inc.

Interlake Reserves Tribal Council  
General Delivery  
Fairford, MB R0C 0X0  
(204) 659-4465

To: MANITOBA INFRASTRUCTURE & INDIGENOUS AND NORTHERN RELATION

cc: Dave Hicks, Christine Baljko, and Liam Speirs

From: Interlake Reserve Tribal Council

Date: January 10, 2019

Re: Channels Project: Proposed consultation workplan from the province – Comments

---

## **Preliminary matters:**

- We note the Province's proposed work-plan assumes there will be no federal, Provincial, or joint federal-provincial hearing on the Project. All of the IRTC's comments about the proposed work-plan are without prejudice to its position that there ought to be a hearing. The IRTC asks the province to confirm that should there be a hearing, the Province and the IRTC will revisit the work-plan.
- The IRTC is strongly of the view that a Project of this magnitude and impact needs to be studied in the context of an independent hearing. A Judicial Review is pending on whether to have a CEAA hearing. Under its legislation, the Province has an obligation to make a decision whether to hold a hearing. To our knowledge, it has not done so yet, and the deadlines set out in the Provincial regulations have passed. When does the Province intend to comply with the Environment Act and its regulations, and decide whether to hold a hearing? When will it inform the IRTC, and others who filed objections to the Environment Act Proposal, of its decision about a hearing?
- How does the Province foresee this work-plan aligning with CEAA's proposed Technical Advisory Committee?
- Confirm that deep consultation and accommodation of the First Nations represented by the IRTC is required before the Project can be approved.

- A concern that the process is being treated as a surface exercise, as one or two meetings here – or a site visit there – are entirely inadequate for a project of this scale.
- Will the Province acknowledge that it understands that meaningful consultation requires:
  - a) *Adequate studies and information:* The parties can have an elaborate consultation process, but without information provided by good studies, the process will be akin to "going through the motions". Effective accommodation measures can't be developed without good baseline information and reliable impact assessments.
  - b) *Independent expert advice:* In order to properly understand the impacts of a project of this magnitude and complexity, the IRTC will require independent expert advice, particularly on matters related to hydrology and aquatic life.
  - c) *Community led Cultural Impact Assessments/TLU studies:* It is very important to the IRTC and its member Nations that the Cultural Impact Assessments/TLU studies to be included in the EIS are led by them, and conducted by experts of their choice.
  - d) *A transparent and flexible process.* Manitoba's willingness to discuss its proposed work-plan with First Nations is a welcome development, as is its commitment to provide a consultation log for the IRTC to review. The IRTC would also suggest regular (perhaps monthly) reporting in the form of a consultation log to be reviewed by the parties for accuracy
  - e) *Reasonable, predictable resourcing of consultation activities:* First, it is unfair and entirely against the spirit of consultation for the proponent to arbitrarily withhold previously agreed upon consultation funding. For example, based on a 2017 work-plan, the IRTC expected some funding from the Province to support its consultation activities. Yet for the past 18 months, the Province has withheld consultation funding from the IRTC. The IRTC needs to be able to trust that the Province will not use project consultation funding as a weapon. Second, the IRTC will require adequate funding to participate in the consultation process, including funding for Cultural Impact Assessments/TLU studies and to hire technical experts so they can understand the project and its impacts.
- *Flooding of Reserve Lands:* If the Channels are approved as planned, and are later used to divert flood waters, reserve lands will be flooded. Accordingly, we ask the Province to confirm that the EIS will include detailed information about expected on-reserve flooding, and an impact assessment (environmental, cultural, and social impact) of this

flooding. The IRTC also requests information on the process the Province intends to follow to obtain reserve land easements, including information on how the Province foresees this process will align with the provincial and federal regulatory processes.

- *Socio-Economic Study – co-management.* Is the Province committed to co-management of the Socio-economic studies? If not, how does the Province foresee studying our community members in a respectful manner?

## **Comments specific to proposed to new workplan**

### **Phase 1: Initial assessment – Complete**

### **Phase 2: Consultation and Engagement**

Objective #1 – Information sharing, discussion, site visit, and reporting

The hiring of an external consultant by the province to coordinate this process appears to be a good step in the right direction. However, there are certain aspects in the process that must be community -led. Also, as agreed with the province, the comments provided here are high level (just as the proposed process is) and details (activities) will be worked out in the coming weeks. The following paragraphs are comments specific to each section in the proposed process.

Meeting – The purpose of the meeting gives the impression that project has been approved and that all parties are in unison/agreement. Instead, we'd like to see issues like the following discussed:

- why the province thinks these channels will alleviate the flooding, and what if it doesn't?
- What is the plan to involve our communities in the project work? considering we have a joint venture
- What are the proposed impacts: positive and negative?

Site visit – Site visitation will be led by our communities, and will be done during traditional knowledge land use studies carried out by IRTC.

Traditional knowledge and/or Resource use - This particular section is needed by the proponent in developing a comprehensive Environmental Impact Statement. To clarify, we refer the proponent to page 10 on the EIS guidelines, which explicitly states:

“ The assessment of environmental effects on Aboriginal peoples, pursuant to paragraph 5(1)(c) of CEAA 2012, will undergo the same rigour and type of assessment as any other 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”

Therefore, in order to provide this information to the proponent, IRTC will be leading traditional land use studies, and co-manage socio-economic studies, heritage surveys, and cultural impact assessments, as mandated in the EIS guidelines. This study will be community led. To do this, each community will have a coordinator to assist in coordination of resources, and a staff member (or consultant hired by IRTC) to oversee the study. This study will take into cognizance EIS guidelines, which means scope of study/work will be reflective of what is contained in these guidelines. Thereafter, activities and budget will be detailed out. And we intend to work in close coordination with the external consultant hired by the proponent to oversee the entire consultation process. To emphasize, A TLU/cultural impact assessment for each affected First is critical to inform the consultation process and to inform the development of accommodation measures. The IRTC's member nations are willing to share their traditional knowledge with the proponent. Respectful sharing of information includes studies led by the IRTC and the member Nations, with experts of their choice. Site visits or ground-truthing will be incorporated into these First-Nation Specific TLU studies as necessary, and as determined by each community. The EIS Guidelines mandate the required scope of the TLU studies. And based

on proposals collected by the IRTC for TLU studies that align with the EIS Guidelines, we understand these studies will take approximately 8 to 12 months to complete<sup>1</sup>.

Objective #2- Confirming concerns and suggestions

We propose that two separate reports be produced in this section: first, report from initial meeting (or meetings, as required). Second, report from traditional knowledge/resource use studies – which will be progressively elaborated, as studies might still be ongoing at this stage of the process.

Objective #3 - Share and discuss the environmental assessment, the assessment approach, reporting.

No comments.

Objective #4 – Conclude phase 2 crown -aboriginal consultation

No comments

### **Phase 3: Analysis, reporting, and decision**

Objective #5 – Analysis, reporting and decision

*Discussion on how the Province will address and accommodate concerns:* The IRTC sees a serious gap in objectives 5 and 6 of the proposed process. It says the Province will prepare a list of the concerns and ask the communities to confirm the list is accurate. Following which, it appears, the Province will unilaterally determine how to address those concerns and inform the communities of the conditions in the approval/licence.

**Absent is any process to develop accommodation measures or conditions with the First Nations.** A failure to engage in a back-and-forth with First Nations on requested accommodations measures was one of the reasons the Federal Court of Appeal set-aside the Trans Mountain Pipeline approval.

*Co-development of mitigation, avoidance, off-set and other accommodation measures:* To discharge the duty to consult, the process needs to include a process to co-develop mitigation, avoidance, off-

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<sup>1</sup> 8 to 12 months starting from the time the contract with the consultant is signed. All consultants require at least 50% of the budget up front to begin their work. Funding will need to be allocated accordingly

set and other accommodation measures. The IRTC and its member Nations want to work with the Province and CEAA, as *real partners* (not simply stakeholders to provide 'comments' on conditions predetermined by the province) in jointly developing the following:

- Conditions included in any project approvals/licences
- Other avoidance, mitigation or off-set measures outside of the regulatory process. This would include discussions on economic benefits arising from the Project.

IRTC will provide proponent with final report from studies, which can then be added to proponent's final report.

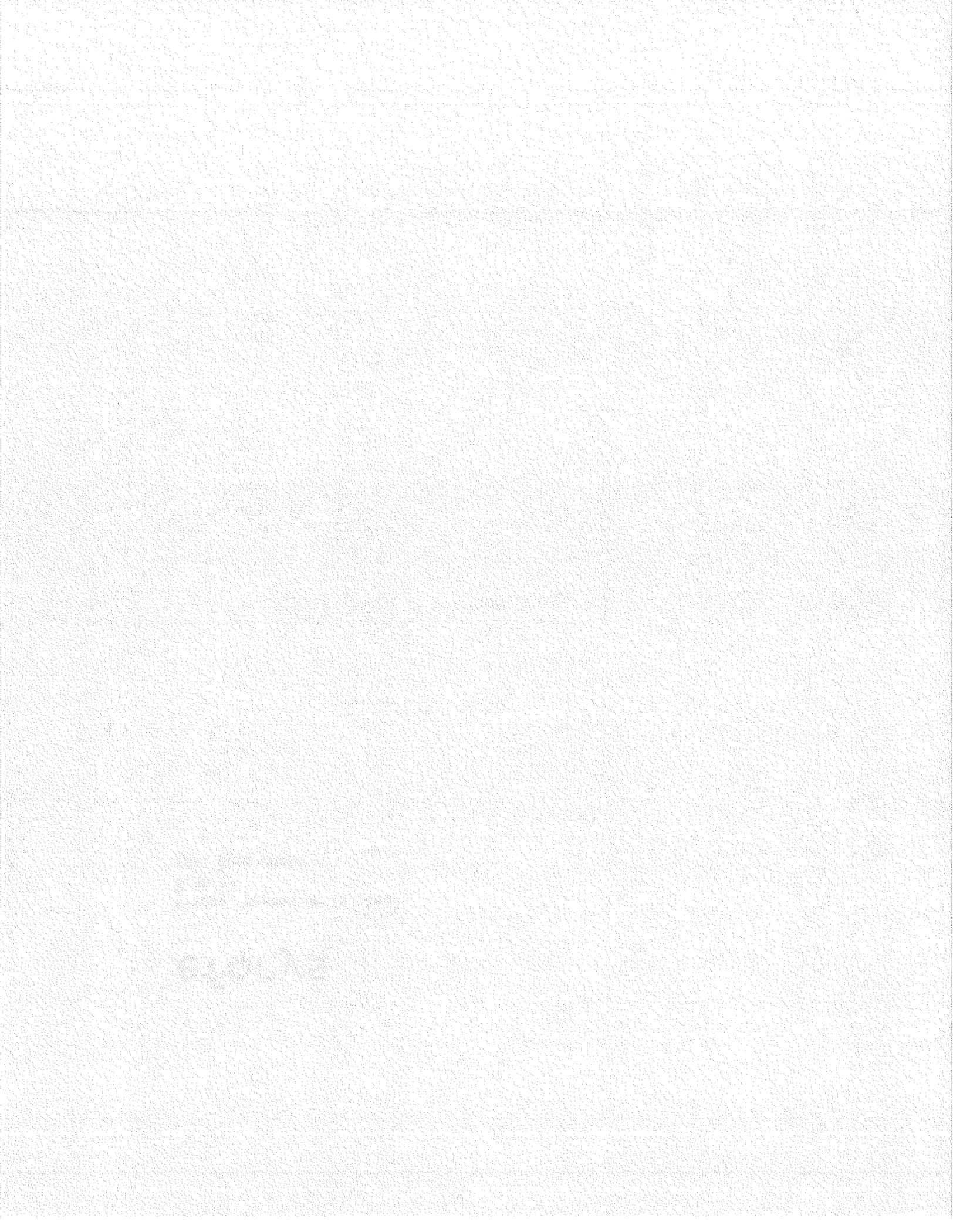
#### **Phase 4: Reporting on the decision to the community**

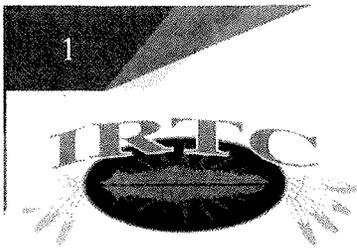
Objective #6 – Reporting on decision to the community

No mention of EIS in this phase. The assumption is that an EIS report will be produced. And so, we would like to review the final EIS before it is sent to CEAA.

#### **Concluding comments**

The understanding is that the “workplan -overview” is a high level break down, and that specific details will be parsed later on. As a result, the comments highlighted above will be subject to a breakdown, as well. Further more, we are concerned with the use of certain phrases throughout the text. For instance, on page 1, paragraph 3, it states: “opportunity for community members to provide information.....” This is could be interpreted to mean “a lucky chance or an option”. The duty to consult is not an option. It is an obligation and an opportunity for the province(proponent) to engage our communities. Also, last paragraph on page 2, it states: “.... and if concerns were not addressed, will provide reasons why”. This simply means solutions to concerns will not be provided. So, we hope to clarify all these – and more - at the next meeting.





# Interlake Reserves Tribal Council, Inc.

Interlake Reserves Tribal Council  
General Delivery  
Fairford, MB R0C 0X0  
(204) 659-4465

To: MANITOBA INFRASTRUCTURE & INDIGENOUS AND NORTHERN RELATION

cc: Dave Hicks, Christine Baljko, and Liam Speirs

From: Interlake Reserve Tribal Council

Date: January 10, 2019

Re: Channels Project: Proposed consultation workplan from the province – Comments

---

## Preliminary matters:

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- The IRTC is strongly of the view that a Project of this magnitude and impact needs to be studied in the context of an independent hearing. A Judicial Review is pending on whether to have a CEAA hearing. Under its legislation, the Province has an obligation to make a decision whether to hold a hearing. To our knowledge, it has not done so yet, and the deadlines set out in the Provincial regulations have passed. When does the Province intend to comply with the Environment Act and its regulations, and decide whether to hold a hearing? When will it inform the IRTC, and others who filed objections to the Environment Act Proposal, of its decision about a hearing?
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## Indigenous and Northern Relations

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T 204-945-2510 F 204-948-2274  
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January 29, 2019

Chief Cornell McLean  
Lake Manitoba First Nation  
PO Box 1250  
Lake Manitoba First Nation MB R0C 3K0

Dear Chief McLean:

### Lake Manitoba - Lake St. Martin Outlet Channels Project – Options for Consultation Process

We have copied you on our letter to the Interlake Reserves Tribal Council (IRTC), dated January 29, 2019 (attached).

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Sincerely,

<original signed by>

Mark Allard, P. Eng.  
Project Director and Acting Executive Director  
Manitoba Infrastructure

Geoff Sarenchuk  
Acting Director, Consultation and Reconciliation  
Indigenous and Northern Relations

Attachments

cc. Karl Zadnik, CEO IRTC





# Interlake Reserves Tribal Council, Inc.

February 7, 2019

Geoff Sarenchuk  
Acting Director, Consultation and  
Reconciliation  
Manitoba Indigenous and Northern Relations  
400 – 352 Donald Street  
Winnipeg, MB R3B 2H8

Email: [Geoff.Sarenchuk@gov.mb.ca](mailto:Geoff.Sarenchuk@gov.mb.ca)

Mark Allard,  
Project Director And acting Executive Director  
Manitoba Infrastructure  
6<sup>th</sup> Floor – 215 Garry Street  
Winnipeg, MB R3C 3P3

Email: [Mark.Allard@gov.mb.ca](mailto:Mark.Allard@gov.mb.ca)

Dear Geoff and Mark:

## **Re: Lake Manitoba & Lake St. Martin Channels Project**

This is in response to your January 29, 2019 letter and its attachments regarding the Channels Project.

### *IRTC's Role*

In response to comments about the IRTC's role, we attach Band Council Resolutions from our communities - Lake Manitoba, Little Saskatchewan, Kinonjeoshtegon and Dauphin River First Nations - confirming the IRTC is authorized to be our consultation and study coordinator for matters related to provincial consultations on the Channels Project. As we told Manitoba in January and August 2018, Pinaymootang and Peguis respectively, have decided to consult independently of the IRTC. We respect and support their decision.

A First Nation is entitled to authorize an organization to represent them for the purposes of consultation.<sup>1</sup> With respect, it is not up to Manitoba to decide who our Nations authorize to be the point of contact for consultation. That is our decision.

From the perspective of Lake Manitoba, Little Saskatchewan, Kinonjeoshtegon and Dauphin River, there are significant efficiencies in working together. These efficiencies are particularly

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Winnipeg, Manitoba  
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important given the Province has not provided any consultation funding for more than a year, contrary to the agreement signed in 2017.

We cannot help but interpret the Province's refusal to flow funding for consultation for more than a year, along with its suggestion that our member First Nations not coordinate, as an effort to divide and conquer and a transparent attempt to withdraw from the 2017 funding agreement.

### ***Questions regarding Manitoba's Responses***

Thank you for providing a response to the "preliminary matters" raised in our January 10, 2019 memo.

Please provide clarification on the following:

- a. *Traditional Knowledge and Resource Use Reports/Cultural Impact Assessments:*
  - i. The scope of the Traditional Knowledge and Resource Use Report needs to align with the EIS guidelines. This means that it needs to be scoped to include lands and waters directly and indirectly impacted by the Project. Given the broad geographical scope of impacts arising from changing water flows, the "project area" is too narrow a scope.
  - ii. Where an Indigenous community is willing to share its traditional knowledge for the purposes of an EIS, CEAA's policies strongly encourage community-led studies. As shared at our December meeting, based on the estimates we have collected, a report that fulfills the EIS Guidelines will cost in the range of \$100,000 to \$150,000 per First Nation, and will take at least six months to complete. Our communities are anxious to share information about their land use to ensure that their interests and rights are taken into account. Yet these studies have not started. Delays in starting these studies are entirely due to the Province's failure to flow any funding for them. The responses provided in the January 29 letter don't provide any clarity on this crucial issue. Assessing impacts on Treaty and Aboriginal cannot be an afterthought. It is extremely important to our communities that our interests are considered in this process and we need studies in order for that to happen.

Please confirm whether or not the Province, as the Project Proponent, will provide reasonable funding for a community-led Traditional Knowledge and Resource Use Reports/Cultural Impact Assessments, that meet the EIS Guidelines; or does the Province intend to use its own staff to conduct Traditional Knowledge and Resource Use Reports/Cultural Impact Assessments?

- b. *Internal experts:* Manitoba says it will consider making internal experts available to First Nations to explain technical issues. The IRTC objects to having to rely on experts chosen

by the Province to understand technical issues. Our interests are not necessarily aligned with yours. The IRTC requires independent expert advice, particularly on issues concerning the fishery and surface water. As explained at our meeting, the IRTC is open to working with other First Nations and organizations to pool resources to hire these experts and realize cost efficiencies.

Please clarify whether Manitoba will provide any funding (as part of consultation funding or otherwise) for First Nations to hire their own technical advisors/experts? Is Manitoba suggesting that it will provide internal experts in lieu of providing funding for First Nation to hire experts of our choosing? If so, please send us the CVs of all the internal experts the province seeks to rely on, including any internal experts on traditional land use.

- c. *Environment Act* Process: Information generated through the *Environment Act* and CEAA Process will inform the consultation and accommodation process to an extent. Accordingly, we ask that INR help us obtain information from other Provincial departments in a timely way. Specifically, we request the following information:
- i) When will a decision be made about whether a hearing will be held by the Clean Environment Commission (or a joint hearing with CEAA)? We note that under the *Licensing Procedures Regulation*, section 7 and section 12(6) of the *Environment Act*, the Minister had a deadline of mid-August, 2018 to make a decision about whether to hold a hearing.
  - ii) When will Mr. Webb send us the information we requested? Our lawyer first asked for information in June, 2018 and has made several requests since, the last one being in early December 2018. Mr. Webb continually responds with a promises to get it to us in a 'couple of weeks'. It has been seven months and nothing has been provided. Please obtain and send this information to the IRTC.
- d. *Socio-economic study*: You say that MI will conduct all of the studies for the EIS, including the socio-economic study. Please provide the name and CV of those experts within MI who will conduct this study.

With respect to your question about "co-managing" a socio-economic study, we were referring to the need for First Nations and technical advisors chosen by us to be involved in shaping the study's scope and methods, particularly as it relates to the study of socio-economic impacts of the Project on First Nations.

### ***Meeting Minutes and Consultation Log***

Your January 29 letter referred to draft minutes from our December 17, 2018 meeting. These draft minutes were not enclosed with the letter.

Additionally, at our December meeting (and many times before that) we asked that Manitoba to share its consultation log detailing communications between the province and the IRTC/our member First Nations starting from day one of engagement on this Project. We also suggested that a log be provided thereafter on a regular basis (perhaps monthly). The purpose of sharing the log is so we can provide input and ensure that the entries accurately reflect what transpired. At our December meeting, the officials from Manitoba agreed to share the consultation log.

Please send the draft December 17, 2018 meeting minutes and the consultation logs to our Executive Director, Karl Zadnik, <personal information removed>

### **Summary of Questions and Requests.**

- Confirm whether or not the Province will provide any funding for a community-led Traditional Knowledge and Resource Use Reports/Cultural Impact Assessments, to be led by a consult hired by the communities/IRTC.
- Does the Province intend to use its own staff to conduct Traditional Knowledge and Resource Use Reports/Cultural Impact Assessments?
- Clarify whether Manitoba will provide any funding to First Nations to hire experts independent of the Province to enable communities' to meaningfully participate in consultation?
- Please send us CVs of all the internal experts the province seeks to rely on, including any internal experts on traditional land use and those experts who will lead the socio-economic study.
- When will a decision be made about whether a hearing will be held by the Clean Environment Commission?
- Please ask Mr. Webb to send the information we requested in the summer of 2018?
- Please send the draft December 17, 2018 meeting minutes
- Please send Manitoba's consultation logs as requested.

Sincerely,

<original signed by>

**Cornell McLean**  
Chairman, IRTC  
Chief, Lake Manitoba First Nation

<original signed by>

**Hector Shorting** ✓  
Board Member, IRTC  
Chief, Little Saskatchewan First Nation

<original signed by>

**John Stagg**  
Board Member, IRTC  
Chief, Dauphin River First Nation

<original signed by>

**Dave Traverse**  
Board Member, IRTC  
Kinonjeoshtegon First Nation

*Enclosures*

- 4 BCR's (Lake Manitoba, Little Saskatchewan, Kinonjeoshtegon and Dauphin River) authorizing the IRTC as the point of contact for consultation
- January 29, 2019 letter from MI and Indigenous Relations to IRTC and attachments
- January 10, 2019 letter from IRTC to MI and Indigenous Relations
- Draft Work Plan Overview, provided to IRTC at December 17, 2018 meeting

CC: Anna Kessler, CEAA, [anna.kessler@canada.ca](mailto:anna.kessler@canada.ca)  
Dave Hicks, [Dave.Hicks@gov.mb.ca](mailto:Dave.Hicks@gov.mb.ca)  
Christine Baljko, [Christine.Baljko@gov.mb.ca](mailto:Christine.Baljko@gov.mb.ca)  
Liam Speirs, [Liam.Speirs@gov.mb.ca](mailto:Liam.Speirs@gov.mb.ca)  
Bruce Webb, [Bruce.Webb@gov.mb.ca](mailto:Bruce.Webb@gov.mb.ca)  
Sara Bahir, Manitoba Justice, [Sarah.Bahir@gov.mb.ca](mailto:Sarah.Bahir@gov.mb.ca)  
Meaghan Conroy, MLT Aikins LLP, <email address removed>

**From:** "Edwin Mitchell (MI)" <[Edwin.Mitchell@gov.mb.ca](mailto:Edwin.Mitchell@gov.mb.ca)>  
**To:** <personal information removed>  
**Cc:** "Christine Baljko (MI)" <[Christine.Baljko@gov.mb.ca](mailto:Christine.Baljko@gov.mb.ca)>  
**Sent:** Tuesday, March 12, 2019 2:50:34 PM  
**Subject:** Correspondence on March 3, 2019

Good afternoon Seetta,

Allow me to introduce myself my name is Edwin Mitchell I work with Lyle Campbell and Christine Baljko on Environmental Engagement and Crown Consultation for the proposed outlet channels project.

Just wanted to acknowledge that we have received both correspondence dated Feb. 29, 2019 and the March 5, 2019 from IRTC, a response to both correspondence is currently being developed.

Miigwetch/Ekosani/Thankyou,

**Edwin Mitchell**  
Manitoba Infrastructure - Lake Manitoba/Lake St. Martin Outlet Channels  
2<sup>nd</sup> floor - 280 Broadway, Winnipeg MB. R3C 3P3  
C: 204.794-8635 / E: [edwin.mitchell@gov.mb.ca](mailto:edwin.mitchell@gov.mb.ca)



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Seetta

19 correspondence -

**From:** Meaghan M. Conroy  
**Sent:** Friday, March 22, 2019 4:12 PM  
**To:** Bahir, Sarah (JUS)  
**Subject:** FW: IRTC lettered response to Provincial Government Jan 29/2019 correspondence - February 7,2019

Hello Sarah;

Our client, the Interlake Reserves Tribal Council, sent the attached letter to your clients about 6 weeks ago. I understand from an email from one of your officials that a response is being worked on.

In the meantime, as agreed to at the Dec. 17, 2018 in-person meeting, can you please forward me a copy of the meeting minutes from that in-person meeting. (The Province forgot to attach them to its January 29<sup>th</sup> letter. The Jan. 29<sup>th</sup> letter referenced the minutes, so I assume they exist.)

Additionally, are you able to advise on when the Province plans to share its consultation log (from around early 2017 to the present)?

Look forward to hearing from you,

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**From:** 'Karl Zadnik' <personal information removed>  
**Sent:** Thursday, February 07, 2019 4:54 PM  
**To:** [Geoff.Sarenchuk@gov.mb.ca](mailto:Geoff.Sarenchuk@gov.mb.ca); [mark.allard@gov.mb.ca](mailto:mark.allard@gov.mb.ca)  
**Cc:** [anna.kessler@canada.ca](mailto:anna.kessler@canada.ca); [Dave.Hicks@gov.mb.ca](mailto:Dave.Hicks@gov.mb.ca); [Christine.Baljko@gov.mb.ca](mailto:Christine.Baljko@gov.mb.ca); [Liam.Speirs@gov.mb.ca](mailto:Liam.Speirs@gov.mb.ca); [bruce.webb@gov.mb.ca](mailto:bruce.webb@gov.mb.ca); [sarah.bahir@gov.mb.ca](mailto:sarah.bahir@gov.mb.ca); Meaghan M. Conroy; Chief Cornell McLean; Chief John Stagg; Chief Dave Traverse; <personal information removed> [matthew.dairon@canada.ca](mailto:matthew.dairon@canada.ca); <personal information removed>  
**Subject:** IRTC lettered response to Provincial Government Jan 29/2019 correspondence - February 7,2019

Good afternoon. Geoff and Mark,

Please find attached response letter from my Chiefs as well as an enclosure.

If you have any questions please contact me.

Best regards

Karl Zadnik, BComm(Hons), PM Cert.  
Chief Executive Officer  
Interlake Reserves Tribal Council



# Interlake Reserves Tribal Council, Inc.

July 10, 2019

Christine Baljko  
Manitoba Infrastructure  
450 Broadway  
Winnipeg, MB R3C 0V8

## **RE: Lake St Martin Channel 2 & 3 Reach Meeting follow up – June 28, 2019**

Dear Ms. Baljko,

Thank you both (Edwin and yourself) for meeting with Ryan and myself last Friday, July 5, 2019.

As you know, when we met with Minister Schuler in early June, he agreed that it was imperative that both of our leaders (your Minister and the Chiefs) work collaboratively to rebuild our relationship and find solutions on three priority areas of concern for the IRTC.

On July 5, 2019 we discussed the following:

- **Introductions:** In my opening remarks we noted that MIT has only met with our communities once in December 2017, and no consultation has happened since then. We also confirmed that a meeting with the Chiefs or my staff about workplans is not consultation. Since December 2017, there has been little if any exchange of information about the project. There has been no collection of information by MIT of the project's impacts on our land users and our member Nation's rights and no discussion of ways to mitigate those impacts
- **Traditional Knowledge Land Use Study Funding:** You advised that funding will be available for the communities. IRTC agreed to obtain will 3 quotes for TKLU studies that meet the terms of reference set out in the EIS, which we will share with you. The IRTC expects that EIS will not be filed unless these TKLU studies are included.
  - We also shared that we feel like lab rats because of the way that MIT is approaching consultation and the required TKLU studies
  - Action Items:
    - Christine Baljko to send the project scope for the EIS/EIA filing
    - IRTC to provide 3 quotes for TKLU studies to MIT
- **Contracting opportunities:** We shared that all 6 IRTC member First Nations are part of the Saulteaux Tribal Nation Limited Partnership, which can perform construction work on the anticipated access road and the channel. Back in Dec 2017, when the IRTC's Joint Venture was hired to build part of the access road., Mark Allard and ADM Angie Bruce that if this contract was on budget and on time that we would have additional work down the road. This Joint Venture had a 56% First Nation

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participation rate. Our Joint Venture completed this contract on time and on budget. It also helped us advocate for this project with our people and their communities. Economic accommodations like this contracting work builds buy-in amongst community members, who share in the economic benefits through jobs.

Thank you again for meeting with us, we await your items on the take away list mentioned above.

<original signed by>

~~Karl Zadnik,~~  
Chief Executive Officer  
Interlake Reserves Tribal Council

cc. Chief Cornell McLean  
Chief Glenn Hudson  
Chief Dave Traverse  
Chief John Stagg  
Chief Hector Shorting  
Chief Garnet Woodhouse