Peguis
FIRST NATION

June 5, 2020

Peguis First Nation: Summary of Concerns with the Environmental Impact Statement (EIS) for Lake Manitoba and Lake St. Martin Outlet Channels Project

Peguis First Nation (Peguis) is a Treaty 1 First Nation, located in Manitoba, Canada. With a population of approximately 10,246 members of Ojibway and Cree descent, it is the largest First Nation community in Manitoba. The community of Peguis First Nation is located approximately 196 kilometres north of Winnipeg along the banks of the Fisher River and to the east of the Lake St. Martin Diversion Channels Project (the Project).

Peguis is concerned that the construction and operation of the Project will have a serious impact on the land and water in their Traditional Land Use (TLU) area which overlaps the Regional Assessment Area (RAA). Peguis community members were not meaningfully consulted on the Project, and therefore have substantial reservations about the veracity and breadth of the EIS prepared by the proponent. Peguis has a keen interest in protecting and preserving both the land and water resources in this area for the use of future generations and the lack of meaningful consultation on this matter is very concerning.

Peguis has always and continues to emphasize that in any project where an EIS is required there must be meaningful consultation and accommodation conducted and the findings must be an integral part of the EIS. To do otherwise would be a breach of the honour of the Crown. In the case of Dene Tha, a federal court decision, the court stated that the Crown has to consult First Nations about the design of the regulatory and environmental process. Clearly, that has not happened in this case. It is a blatant breach of the legal standards set out by the court. The EIS is a major document in this Project and to have this important item missing will result in having a flawed process resulting in a flawed outcome.

Peguis believes that in order to remediate the process and remove the flaws, the EIS must be reconstituted with input from First Nations such as Peguis. Essential elements must include input from First Nations on matters such as the Anishinaabe world view, treaty and aboriginal rights, historical patterns of fishing, hunting and gathering, the connection to the land and environment, the practices of the Anishinaabe on the land, and adverse impacts on Section 35 rights.

BOX 10, PEGUIS FIRST NATION, MB, R0C 3J0 PHONE: (204) 645-2359 FAX: (204) 645-2360 WEB: PEGUISFIRSTNATION.CA

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It is widely believed in the community that the development of the access road or the Idlewild Trail was done by the province in a devious manner that attempted to circumvent the licence requirements of the project. Further, there is a view that the lack of adherence to the accepted process was done deliberately to avoid the oversight of other agencies or bodies such as the Federal Government. The Supreme Court case of Marshall in 1999 stated that there should be no 'sharp dealing' when the Crown has dealings with the First Nation. Again, the Provincial Crown has breached this important legal standard set out by the Supreme Court of Canada.

Peguis holds the view that projects such as the Lake Manitoba and Lake St. Martin Diversion Channels must be fully adherent to the legal standards set out by the courts and failure to follow or abide by these standards will result in project failure.

Peguis community members hunt, trap, fish, and use the natural resources in the RAA's defined by the EIS. The Big Buffalo Lake area and all areas to the east of the channels are particularly important to the community. Peguis is concerned that the channels will alter groundwater levels in these areas thus affecting wetlands, lakes, and streams that currently provide the suitable conditions for valuable plants and animals that our culture and well-being depend on.

The fishers are concerned that the new channels will permanently impact the size and location of Walleye and Whitefish populations. Specifically, they are concerned with the access that the fish have to and from the Dauphin River and Lake St. Martin. Changes in flows and water quality in Sturgeon Bay and Lake St. Martin will almost certainly have a negative impact on fish populations, and likely on water quality overall.

In addition to the commercial fishing, Peguis people have a spiritual and cultural connection to the land and waters and view hunting, trapping, fishing, and resource gathering as an integral component of our traditional way of life. We use these activities as a way to connect to our history, maintain our language and culture, and foster relationships across generations of our people.

Our review of the EIS finds major shortcomings with the completeness and strength of the EIS. These shortcomings are:

- **Lack of meaningful consultation with Peguis and other First Nations.**
  The lack of meaningful consultation with Peguis on the Project has been of concern since the beginning. The lack of consultation has limited the scope of the EIS to the proponent's viewpoint on how the Project will affect the environment and Peguis. The exclusion of the access road is a case in point.

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Our fishers and resource users foresee that the Project will alter the aquatic environment in the small inland lakes and wetlands, as well as Lake St. Martin and Lake Winnipeg. In 2011 and 2014, during the operation of the emergency outlet channel (EOC), Peguis fishers observed significant changes to fishing conditions in their traditional waters. These included, but are not limited to:

- Changes in the flow and turbidity of the water in traditional fishing grounds around Reindeer Island and Big and Little Sturgeon Islands, traditional fishing areas;
- Increased debris in the water leading to fouling or damage to nets; and
- Higher turbidity levels in water in Sturgeon Bay.

- **The analysis of "alternative means to carry out the project" was inadequate.**
  The benefit-cost analysis conducted by the proponent defined benefit as only the costs saved by offsetting the impact of flooding. The analysis did not consider other benefits such as those that would accrue to an alternative project from water stored during flooding and used later to enhance agriculture, municipal water supplies and the environment in the drought prone areas of the prairies. Also, each alternative project is considered as a stand-alone project. Knitting combinations of the alternative projects together at smaller scales was not considered in the analysis.

- **The Project access road was excluded from the EIS.**
  Peguis cannot understand why the access road, a major part of the Project, was excluded from the EIS. This road has opened up previously pristine wilderness area to use by hunters, fishers, and recreational users. The impact that this access road is having on the environment and on Peguis traditional rights must come under scrutiny in the EIS.

- **The Project is being built so that it can operate year-round, independent of flood conditions.**
  The proposed Lake Manitoba Outlet Channel (LMOC) will have a bottom elevation of approximately 242 m above sea level (m asl) at its inlet from Lake Manitoba. This is roughly the bottom of the lake, meaning that the channels could be operated year-round depending on the design of the inlet structure, and could lower the Lake to an almost dry state. The ramifications of this possibility are not discussed in the EIS., nor is the intake design provided in the project description.

- **The Project's effect on groundwater in the carbonate aquifer that lies within the RAA and beneath Peguis has not been adequately assessed.**
  The carbonate aquifer that lies underneath the project will be intercepted and dewatered by the diversion channels. This aquifer supplies water to the lakes, wetlands, and streams to the west of Peguis. How the interceptions and dewatering will affect the groundwater table in this area remains a major concern for Peguis but is hardly mentioned or analysed in the EIS. The current levels of groundwater sustain lakes, wetlands, streams and land to the west of Peguis (e.g. The Big Buffalo system including Big and Little Buffalo Lakes). The effect of lowering the groundwater table in this area due to Project activities may have a tremendous impact on lakes, streams, and wetlands that depend on the aquifer for their water. Because changes to an aquifer can take many years to manifest, the effects may not be evident for many years, and when noticed, there may be many more years before adequate mitigative measures can take effect. Therefore, it is imperative that a water balance model that can

simulate conditions in the aquifer before and after the Project be applied and evaluated for this Project.

- **Baseline data on hydrology and water quality is not fully analysed for trends.**
  Although information on hydrology and water quality is available for Lake Manitoba, Lake St. Martin, and the northern basin of Lake Winnipeg there is no analysis of the historical hydrology or water quality data to determine longer term trends in the data (e.g. are nutrient conditions in the lakes changing over time and if so, what is that rate of change?).

- **There is a lack of physical models used in the EIS to predict the effects of the Project on the environment.**
  Although information on water levels and flows for the pre-Project conditions are available, along with meteorological information and groundwater information, this information has not been used to create models that could be used to predict changes to the environment caused by the Project. This lack of physical modelling of the environment led to unconvincing predictions of future effects. Models that must be used to understand the effects of the project are:
    - Water balance model for the carbonate aquifer adjacent to and underlying the Project;
    - Water balance model for Lake Manitoba and Lake St. Martin for pre-Project and future conditions including climate change scenarios; and
    - Sediment transport and plume models for the outlets of the LMOC and Fairford River and for the LSMOC and Dauphin River.

  These models are necessary to understand the effect of the Project on groundwater, the affected Lakes, and especially the effect on the fishery and health of the aquatic environment.

- **Cumulative Effects Assessment ignores the impact of major projects currently operating in the area.**
  Two major projects are missing from the EIS and, therefore, hamstring the cumulative effects assessment (CEA): The Portage Diversion and Lake Winnipeg Regulation. The Portage Diversion is changing the water quality in Lake Manitoba. The channels will provide a more direct route for this water to make its way through Lake St. Martin to Lake Winnipeg. The regulation of Lake Winnipeg has had measurable effects on storage and water quality in the Lake, especially the increased conveyance of high flows, nutrients and the resultant worsening of algae blooms in recent decades in the north basin. Yet no consideration is given to the effect of these projects plus the Channels Project on the environment in the CEA.

- **Cumulative Effects Assessment does not consider long-term impact of multiple floods on waters on Lake St. Martin and Lake Winnipeg.**
  The CEA does not include the effect of multiple floods on the receiving environments in Lake St. Martin and Lake Winnipeg. Reasonably foreseeable events would include the effects of one 100-year flood, two fifty-year floods, five 20-year floods, and a number of other major flood events that may occur in the next 100 years on the receiving environments of Lake St. Martin or Lake Winnipeg.

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The shortcomings we have highlighted point to the lack of completeness and strength of the EIS. Therefore, Peguis is recommending that the proponent revise the EIS by fixing the shortcomings outlined above and start a meaningfully consultation with Peguis and other First Nations on the Project. We object to the EIS proceeding any further without this further analysis and consultation.

Additional line items that follow the format proposed by CEAA for information requests are attached in the accompanying Excel spreadsheet.

Chief Glenn Hudson <Original signed by>

Councillor Martin Favel <Original signed by>

Councillor Annette Spence-Meeches <Original signed by>

Councillor Wade Sutherland <Original signed by>

Councillor Glenis Sutherland

Councillor Kelvin Wilson

Councillor Mary T. Bear