

Project #:80148

May 6, 2024

To Whom It May Concern,

Please find attached my comments regarding Project #: 80148, Lake Manitoba-Lake St. Martin.

Thank you

Cathy Johnson
Winnipeg

Preamble

This project as proposed, is damaging to the environment, it's assessment inadequate and fraught with incomplete information and uncertainties.

As proposed, the project costs will be far larger than the figures provided. Provided are the original construction costs (350 million) five years ago. In the intervening time these costs have escalated and will do so into the future. In addition, if the project goes ahead as proposed there will be need for more funds to address the required studies, monitoring, mitigation and compensation for those affected. There are likely to be legal challenges that will have to be addressed and depending upon the judgements coming out of these additional funds will be needed. It is likely the price tag for the current proposal will be in the \$1 billion range rather than 350 million, most of which will be borne by Manitoba taxpayers. There are also likely to be ongoing costs/compensation with every operation of this drain.

The previous administration in Manitoba, took a dated approach to this project in that a constructed engineering solution at the end of the system was the only way to address the identified concern. This continues the view of push the problem downstream for others to deal with. In doing so they fully recognized that the Indigenous communities in the area would again bear a disproportionate economic and social burden for the benefit of other Manitobans without appropriate engagement, consultation or consideration of effects on these communities and the environment on which they depend.

Those Manitoban's that will benefit the most have a variety of economic opportunities open to them as well have flexibility in where they live and work, whether it is in or outside a floodplain. The affected communities are severely hampered by their capacity to address and adapt to further disruptions, do not have the same economic opportunities nor flexibility in where they live yet are asked to shoulder most of the effects of this project.

At the same time the government committed to reconciliation. The manner in which this project was designed and implemented does not recognize the spirit or actions of reconciliation. In fact, it seemed to do the opposite.

The administration assigned an agency to this project that is well versed in construction. Review of the project file reveals that hydrological/hydraulic modeling leaves much to be desired and they were unprepared and without capacity to undertake an appropriate environmental assessment. Appropriate Indigenous consultation was lacking at the design stage and continues to be inadequate. The result is an environmental assessment full of information gaps and uncertainties including questionable mitigation measures and their probability of success. Although relations with the communities have improved there still remains a great deal of distrust and skepticism.

It appears that the only alternatives to the project that were seriously considered were those within the proposed project. Upstream or downstream alternatives to eliminate, lessen or change the effects of the project do not seem to have been seriously considered.

The Assiniboine River system is highly manipulated and impacted from its head waters west of us and as it flows through Saskatchewan and into Manitoba. In Manitoba it is controlled by the

Shellmouth dam and reservoir on the border with Saskatchewan, the Portage Diversion at Portage, for the protection of Winnipeg and the Fairford Dam to control Lake Manitoba. The entire system needs to be subject to full public review, taking a watershed approach and in consideration of all climate change effects. Special attention needs to be paid to flood control operations and environmental impacts. There have been local engagement activities that have influenced the operation of the structures on the local residents without full consideration of downstream effects.

A number of studies and reviews have been undertaken regarding water levels on Lake Manitoba and Lake St. Martin. The control of the water levels in these two water bodies appears to be done with limited consideration of actions in the rest of the system. In all these reports it is recommended that the water levels be managed to mimic the natural water levels to the extent possible to maintain and rejuvenate the marshes, wetlands and fish and wildlife habitats. Many further studies and analyses were recommended but it is unknown how many were carried out and if the results are publicly available.

The current project review report rightly states that CEAA 2012 does not allow the agency to request alternatives to the project and that they are satisfied that alternatives within the project were appropriately explored.

Regardless of what legislation a project is developed under it is the responsibility of the proponent to utilize best practices in their assessment. Contemporary practices encourage proponents to engage with the affected communities at the design stage and not after all the decisions have been made. In this way concerns, issues and alterations can be addressed in the project design rather being ignored or becoming larger problems in operation.

Despite the federal constraints, the Government of Manitoba is encouraged to consider re-evaluating the need for the project and whether there are alternatives to avoid, eliminate or lessen the costs, accrue more benefits and lessen effects of the project proposed in its current form. A Needs For and Alternatives To (NFAT) should be conducted to determine where money could be best spent to alleviate flooding, accrue the maximum benefit to the maximum number of Manitobans, distribute the negative effects more equitably and protect the environment.

This action need not take a great deal of time or money. Many technical studies have been done in parts of the system over the years as well as many alternative projects being proposed. Among these are holding water back upstream to address water shortages and re-naturalizing historical channels to slow the water flow. Another consideration would be to transport water to areas south of the Assiniboine that have chronic water shortages. There is a great deal of technical information on file from the proponent and technical advisors for the participants for this project. Engagement with these technical advisors will provide wider perspectives and possibly some viable alternatives.

The costs of these alternative projects likely limited their analysis as alternatives initially, but in consideration of the extended costs of the current proposal they may now be seen in a more favourable light. In consideration of climate change such proposals may address both flooding and drought.

CEAA has also deferred to the provincial environmental process for further review and licensing once the federal process is completed. Commentary in the recent past noted that provincial

environmental legislation and its application is wanting in the information required, scrutiny of such information and appropriate protection of human health and the environment.

Should the project receive federal approval, Manitoba is encouraged to undertake a thorough, inclusive and comprehensive public review of the project, especially focussing on information gaps and follow-up actions.

Environmental Assessment Report

Technical Issues

Although there are many specific technical concerns raised by those involved, these are best left for comment by the technical advisors hired to support the participants. Broad impressions on the quality of the assessment report and CEAA findings will be provided.

In reviewing the file many issues, concerns regarding the technical information were found. In the final documentation it seems many of these concerns and questions were still not appropriately addressed. CEAA has outlined some of these deficiencies but seem to be considering these deficiencies as an acceptable part of the project. Some are serious deficiencies that should be addressed before consideration of any approvals.

Among these are:

- a) Cumulative Effects Assessment
 - Effect of the whole system operation
 - Indigenous historical impacts
 - Death by a thousand cuts, failed to address biodiversity as a whole
 - Loss of wetlands

- b) Hydrological Modeling
 - Lack of studies and data to input into models to provide a level of probability, certainty of effects and potential success of mitigation
 - Characterization and baseline conditions in contributing waterways and wetlands

- c) Socio-Economic Analysis
 - Poorly done regarding the communities most affected. Overall, the loss of the fishery and other economic opportunities may not have a significant effect on the Indigenous population as a whole but it will have significant impacts on the fishers and the economic input and social stability they provide to their communities.

In addition, the presence of workers (mostly young men) in work camps over a multiple year span needs to be better addressed. The disruption of social interactions, in already disrupted communities, will have significant impacts, especially drugs and gender related violence. There are many examples from previous development projects.

d) Significance

Significance of impacts is not addressed appropriately as the cumulative effects analysis is inadequate. Losses are additive to what has already been impacted.

The loss of productive wetlands is significant and attempting to create them off site doesn't replace them or provide lost opportunities for their users.

Contamination or loss of groundwater for users is significant and is not easily replaced. Modeling, with appropriate studies and data should be required to provide more certainty of predicted effects and their mitigation before the project can be considered for approval.

e) Environmental Effects

Destruction of marshes and wetlands is not adequately characterized.

Loss of fishery opportunities for Indigenous and local communities has not been appropriately characterized

Although listed species have been addressed, the consideration of overall biodiversity seems to be missing.

Follow-up and Mitigation Measures

CEAA provides a very long list of conditions that will be required should the project be approved. Most of the items in this list should have been or should be addressed and evaluated in consideration of the impacts on the environment and whether there is merit in the project's approval, not after the fact.

Outlined is a long list of monitoring activities as well as some mitigation measures. However, the impression that is portrayed regarding monitoring is that it will be done with fingers crossed and holding our breath to fill in some of the identified baseline data and in hopes that serious adverse impacts will not be found. It seems no credible solutions have been provided to address the worst circumstances – contamination of groundwater or its loss. Loss of the fishery and no realistic plan to compensate or replace. No evaluation if the proposed mitigation is even viable or what the costs of these actions may be. This also applies to the loss and replacement of wetlands.

In my 40 some years of experience with environmental issues, follow-up and mitigation are the areas that are of the least interest to the proponent. Once an approval is issued the proponent often does the bare minimum or requests on-going amendments to lessen their financial and operational burden. Once a project is approved, the financial commitments are made and if the project is under construction or in operation it is difficult for a regulator to refuse alterations and shut the project down as some of the conditions imply.

Any government agency will be hard pressed to effectively evaluate compliance with and enforcement of the conditions that have been set out. The lack of resources usually hampers follow-up by the regulator after the first couple of years. The process then becomes complaint driven after the damage has been done.

In development projects the environment always loses. Mitigation actions include avoidance, lessening effects, replacement and compensation. Rarely do proposed mitigation measures provide the results outlined, many take a very long time period to see any success at all.

In this project proposal and the conditions drafted by CEAA, avoidance does not seem to be considered. Are there better ways to do things that lessen the burden on the environment and those affected? Specific mitigation measures are not provided for the greatest effects.

CEAA is proposing off site development of fish habitat and wetlands – the likelihood of success is not provided. If these are to be required as part of the mitigation measures for the project then their parameters should be outlined in the proposal and be subject to review prior to project approval. This activity cannot be developed without the input of the affected communities.

Among the questions that should be answered are:

- 1) Will these developments happen within the project's area? Or in others territory?
- 2) On Crown or private lands?
- 3) Will they be available for use, unfettered by the affected communities?
- 4) What is the likelihood of success? – over what time period? Examples of other attempts should be provided.
- 5) How will users be compensated until the projects are viable or if they never are?
- 6) What will be the costs associated with these activities?

Compensation, as a last resort, was not listed as an option for mitigation, especially for losses to be incurred by Indigenous communities. This option should be considered and factored into the assessment and be part of the project cost considerations.

As noted above, loss of groundwater resources was not well modeled or what mitigation measures may be required. These should be more specifically outlined and be acceptable prior to approval.

The conditions included for Indigenous engagement are too late in the process to influence the project design (after approval). Prior to the project being approved the proponent should be required to engage with those affected and cooperatively design a plan of action to address the conditions listed by CEAA. Specific on the ground actions may come later, but the rules of engagement should be clear to all parties before any approvals are given.

Advice to the minister

As a minister of Environment and Climate Change Canada, it would be expected that the following principles would guide your actions that:

- a) Taxpayers money is spent wisely
- b) Commitments to Indigenous peoples are met
- c) The environment is protected

The current proposal should not be approved. At the current time the proposal does not abide by the above principles.

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Draft conditions recommended by CEAA highlight the information gaps – lack of baseline information and lack of knowledge of what to do if adverse effects are found. It is too late once the damage is done.

The minister should send back the proposal to fill information gaps and reassess the scope, significance and persistence of impacts and their effects, particularly on the Indigenous peoples. As well as the further investigation of proposed mitigation measures to determine their potential success and if not expected to be successful what are the alternatives and are they acceptable?

Cathy Johnson
Winnipeg