



May 10, 2024

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Dear Ms. Fitzgerald:

**Re: Invitation to Comment on the Draft Environmental Assessment Report and Draft Potential Federal Conditions for the Lake Manitoba and Lake St. Martin Outlet Channels Project**

Indigenous Services Canada (ISC) has reviewed the Draft Environmental Assessment Report (the Draft Report) and Draft Conditions for the Lake Manitoba and Lake St. Martin Outlet Channels Project (the Project), and wishes to thank the Impact Assessment Agency of Canada (the Agency) for demonstrating a commitment to taking Indigenous groups concerns and expertise seriously.

ISC agrees with the Agency's conclusions pertaining to direct and cumulative significant adverse environmental effects on Indigenous peoples' current use of lands and resources for traditional purposes; Indigenous peoples' physical and cultural heritage; and Indigenous peoples' sites or things of historical, archaeological, paleontological, or architectural significance.

In its mandated role to support the implementation of the *United Nations Declaration on the Rights of Indigenous Peoples Act*, ISC takes particular note of the fact that numerous Indigenous groups have stated strong opposition to this project.

ISC provides the following comments on the Draft Report:

1. A key consideration is that while the Project is designed to manage water levels and prevent flooding of communities in the Interlake region of Manitoba, several of the Indigenous groups living in this area (the intended beneficiaries of the project) have expressed concerns around—and opposition to—the Project. ISC notes that this is reflected in paragraph four of page 258 of the draft report, which reads ***“The Agency acknowledges that despite the Project's intended purpose of reducing flooding, Indigenous groups feel that this Project would enable the continued flooding of the region and remain in opposition to the Project.”*** Given the importance of this consideration, ISC recommends that the quoted text be included in the Executive Summary.

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2. ISC recommends the following edits to the Executive Summary in order to more clearly communicate and contextualize the Draft Report findings for readers who are not experts in the field of environmental assessment:

- ISC suggests that the findings relating to significance of adverse environmental effects on Indigenous peoples' health and socio-economic conditions, on page iv, be summarized in a separate paragraph from the other federal effects with additional detail from that section (7.5.2.3) of the report. ISC also recommends that the text could more clearly explain for the reader that these conclusions are specific to effects as defined under the legislation (as opposed to socio-economic effects more generally). ISC proposes the following changes to the existing text on page iv (new text underlined) for consideration:

*“While the Project may result in residual effects to other valued components, the Agency is of the view that, after taking into account the implementation of the key mitigation measures identified in this draft EA Report in relation to section 5 of CEAA 2012, the Project is not likely to cause significant adverse environmental effects on fish and fish habitat, migratory birds, and federal lands, ~~and Indigenous peoples' health and socio-economic conditions.~~*

*The Agency acknowledges that Indigenous groups in the area of the project raised concerns about the potential for adverse effects on their health and socio-economic conditions and these concerns are reflected in the report. However, the Agency is of the view that the project is not likely to cause significant adverse environmental effects on the health and socio-economic conditions of Indigenous peoples, as defined under CEAA 2012.”*

3. ISC notes that many Indigenous groups have identified concerns during the environmental assessment process that may not be directly related to the Project and cannot be directly addressed under the *Canadian Environmental Assessment Act, 2012*. ISC encourages the Proponent to consider undertaking additional consultation and relationship-building efforts with potentially affected communities to explore options to address concerns where possible and to support mitigation, monitoring and follow-up measures recommended in the Final Report.
4. ISC's First Nations and Inuit Health Branch (FNIHB) notes that Indigenous groups have expressed concerns pertaining to the social determinants of health and mental health in the Draft Report. In addition, as stated in the Draft Report, Indigenous groups “were not involved in the development of mitigation, monitoring and follow-up plans related to Indigenous peoples' health” (pg. 173). ISC recommends that the Proponent consider engaging with Indigenous communities who may be impacted by the Project to explore opportunities for mitigation of concerns pertaining to the social determinants of health and addressing mental health concerns through ongoing engagement and provision of appropriate support measures.

5. ISC notes that two paragraphs in the Draft Report that refer to Comprehensive Settlement Agreements require minor edits for accuracy.

Specifically, Section 7.6 discusses the Comprehensive Settlement Agreements, in a general sense, for the four “Operation Return Home” (ORH), 2011 flood impacted communities. The Draft Report applies information provided by ISC on Pinaymootang’s Comprehensive Settlement Agreement to the other three communities, however agreements with the other communities are not finalized and may not include the same provisions relating to flood risks and protection. Additionally, while an Agreement has been reached between the province, ISC, and Pinaymootang, and ratified by the community, the Flood Risk Zone Agreement has not been concluded.

ISC suggests the following changes to existing content on page 188 (new text underlined):

*~~“The Agency understands that in relation to the longstanding flood claims, a Comprehensive Settlement Agreement are to be has been negotiated between the Province, Indigenous Services Canada, and each of Pinaymootang First Nation, Little Saskatchewan First Nation, Lake St. Martin First Nation, and Dauphin River First Nation. Each Comprehensive Settlement Agreement would have a Flood Risk Zone Agreement, which identifies the easement level in which the Province can flood reserve land. The parties may negotiate a different easement level within each of the Comprehensive Settlement Agreements. The Agency understands that the Flood Risk Zone Agreements are only for existing water control structures and works and do not include the Project. At this time, the Flood Risk Zone Agreements are being contemplated up until 2030 to cover the timeframe for construction of the Project only. The Flood Risk Zone Agreements are not for flooding during operation of the Project; however, the term of Flood Risk Zone Agreements can be renewed. If the Comprehensive Settlement Agreements are not agreed to, the Province would not have obtained the easements for flooding reserve land during project construction. The Agency understands that not all Comprehensive Settlement Agreements have been signed yet. The Agency notes that as a condition of signing the Flood Risk Zone Agreements, Indigenous Services Canada has requested that the Province provide a baseline assessment of the lands within the contemplated Flood Risk Zones, such that that the Province would rehabilitate the land back to a suitable, environmentally sound state, if the lands were flooded under the Comprehensive Settlement Agreements. The initiation and status of the discussions with the other three communities, Dauphin River, Little Saskatchewan, and Lake St. Martin First Nations, is unknown. The inclusion of a Flood Risk Zone Agreement and the issuance of an easement may be contemplated within the existing and potential Comprehensive Settlement Agreements with these communities, but the specifics have yet to be negotiated by the parties.”~~*

Text on page 186 of the Draft Report (under Changes to Surface Water) should also reflect the potential (and not finality) of these agreements.

ISC has no comments or suggested edits with respect to the Draft Conditions.

Thank you for the opportunity to review the Draft Report and Draft Conditions. If you have any questions or concerns, please contact Julia Gregory, Policy Analyst, Impact Assessment, ISC, by e-mail at [julia.gregory@sac-isc.gc.ca](mailto:julia.gregory@sac-isc.gc.ca).

Sincerely,

Tonina Simeone  
A/Director General  
Lands and Environmental Management Branch  
Lands and Economic Development  
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