



Table 1. Conditions Table for the Draft Environmental Assessment Report for the Lake Manitoba Lake St. Martin Outlets Channels Project – LSFN Comments

Please note, that all the requested changes and conditions do not constitute LSFN’s support for the Project’s approval. These changes are requested with the intention of protecting our rights, interests, and the environment to the best of our ability; however, we strongly oppose the Project as it poses a severe risk to our rights, interests, environment, and the future of our communities. The contents of this document are entirely without prejudice to our position that this project must not be allowed to proceed.

We have implemented a standardized means of review and revision. Suggested text deletions are identified using a strikethrough (~~strikethrough~~), and suggested textual additions are bolded (**bolded**).

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1	2	General	The temporal scope used in the EA focusses only on the construction period, not the long-term operation of the channels that will never be abandoned and restored to their original condition (IAAC states that the Project will operate “in perpetuity” on page 10). LSFN rejects this approach to both temporal and spatial scope.	As a result of the Project operating “in perpetuity”, all monitoring, reporting, follow-up, adaptive management, and compliance enforcement initiatives and conditions must be extended for the life of the Project (in perpetuity). This includes the explicit provision of funding of Indigenous programs, including monitoring and guardianship initiatives, for the entire life of the Project (in perpetuity). Please adjust language in all relevant conditions to reflect this requirement.
2	2.1, p. 4	General	The intention of this condition is well received; however, as currently written it is not enforceable, measurable, or trackable. Concrete direction for MTI is required that includes language for commitments to work with LSFN and IAAC to measure how it is meeting the conditions. Throughout the EA process, the Proponent has not integrated nor considered the knowledge and input that we provided and has taken an approach that disregards the	We request that IAAC make the following revisions to this condition: 1) This condition must include a requirement for an actionable and trackable plan, co-developed with LSFN, that is enforceable and includes reporting mechanisms and outlines how the "Proponent shall ensure that its actions in meeting the conditions set out in this document during all phases of the Designated Project are considered in a careful and precautionary manner, promote sustainable development, are informed by



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			<p>precautionary principle. Additionally, "sustainable development" is not defined here, and First Nations, Manitoba Transportation and Infrastructure (MTI, "the Proponent") and the federal government all have different perspectives on what this means. To LSFN it is not sustainable to sacrifice the use of a territory and the ability for members to fish, hunt, and harvest in the Interlake area to avoid flooding in Winnipeg.</p>	<p>the best information and knowledge available at the time the Proponent takes action, including policies, guidelines and directives and community and Indigenous knowledge, are based on methods and models that are recognized by standard-setting bodies, are undertaken by qualified individuals, and have applied the best available technically and economically feasible technology."</p>
<p>3</p>	<p>2.3. (2.3.1, 2.3.2., 2.3.3, 2.3.4), p. 5</p>	<p>General, Consultation</p>	<p>LSFN requires a clearer definition of what consultation and engagement is expected to look like, and how it will be enforced by the Agency. MTI has repeatedly illustrated that it does not have any intent to meaningfully consult nor engage with First Nations. As such, is important for the Agency to define consultation expectations and details of communication throughout the Project.</p>	<p>We request that IAAC make the following revisions to this condition:</p> <ol style="list-style-type: none"> 1) To 2.3.1: "provide a written and verbal notice via telephone of the opportunity for all potentially impacted parties, including a public notice that will allow parties to self-identify, the parties being consulted to present their views and information on the subject matter of the consultation at least 45 30 days prior to the implementation of condition 2.3.2., including a follow up 10 days before this period is up. A communication plan will be co-developed with each party to ensure notice is being shared through the appropriate channels. 2) To 2.3.2: "provide all information available and relevant to the scope and the subject matter of the consultation and a reasonable period of time agreed upon with the parties being consulted, not to be less than 30 days, and up to 90 days as appropriate, to



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				<p>prepare their views and information. This information will be provided in a form that is accessible and relevant to the party;"</p> <p>3) To 2.3.3:" undertake an impartial consideration incorporation of all views and information presented by the parties being consulted on the subject matter of the consultation; and"</p> <p>4) To 2.3.4: "advise as soon as feasible in writing the parties being consulted on how the views and information received have, or have not, been integrated into the subject matter of the consultation by the Proponent, including a rationale for why the views have, or have not, been integrated."</p> <p>5) Remove the optional nature of inclusion of Indigenous knowledge. It is not for MTI to decide whether or not to include views, even if they are providing rational.</p>
4	2.4, 2.7, pgs. 5, 6	General – Consultation and Follow-up Programs	It is imperative that MTI be held accountable for all the conditions and follow-up measures and mitigations through Nation-specific communication plans, co-developed with community members. IAAC must refrain from accepting MTI's ongoing approach for simply sending out notifications to communities and following one-way information flows and "check-box" approaches to communication and engagement. There needs to be a two-way dialogue whereby the Indigenous groups	<p>In addition to changing language so that there is not a one-way flow of communication and top-down approach to consultation, we request that IAAC make the following addition(s) to the condition:</p> <p>1) Require the inclusion of First Nation-specific communication plans. These plans must include:</p> <p>a. A plan for on-going community engagement, including timeline and preferred means of engagement.</p>



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			<p>and MTI decide collaboratively on these topics and MTI is accountable for its conditions.</p>	<ul style="list-style-type: none"> b. A mutually-agreed upon schedule for regular communications in the medium preferred by the Nation e.g., community meetings, meetings with leadership, newsletters, etc.). c. A clear protocol for communication between community leadership and the Proponent, including the exchange and documentation of up-to-date contact information for all relevant offices and persons. d. A protocol and accountability mechanism for ensuring the Proponent's appropriate and timely application of the concerns, knowledge, perspectives, issues, etc. e. A risk communications plan for keeping communities and community members informed of any existing and emergent risk associated with project construction and operation.
5	2.5, pgs. 5-6	General - Follow-up Programs	<p>We appreciate that IAAC is looking to hold MTI accountable for their 'plans for plans' by requiring MTI to pre-develop plans instead of only using adaptive management. However, there needs to be more concrete plans in place that ensure MTI is collaborating with LSFN</p>	<p>We request that IAAC make the following revision(s) to the proposed condition:</p> <ol style="list-style-type: none"> 1) Avoid follow-up programs that will be a top-down process, directed solely by MTI, with only marginal community involvement. Follow-up programs must be developed collaboratively with communities. IAAC, MTI,



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			transparently, openly, and as partners. The language needs to be strengthened throughout this section to ensure LSFN is actively involved in the planning and the monitoring.	and LSFN to collaborate on identifying the follow-up programs that require in-depth First Nation involvement. 2) Define who the "parties" are. MTI has shown that they would prefer to only work with select communities, but all First Nations who want to be involved need to be given the opportunity.
6	2.8, p. 6	General - Follow-up Programs	Any follow-up programs need to be in collaboration with First Nation monitoring groups, whether these are from communities, or whether a group is established for the Project. They also need to be involved in reporting results and assessing the effectiveness of the programs.	We request that IAAC make the following revision(s) to the condition: 1) Indigenous monitors must be included in all aspects of the follow-up programs, including in co-developing policies and plans, carrying out monitoring activities, and meaningful involvement in reporting. We request that IAAC make the following addition(s) to the condition: 1) The Proponent to fund and support an Indigenous Guardian Monitoring Program for the life of the Project (discussed in further detail in Item 53).
7	2.9, p.7	General - Follow-up Programs	This condition requires stronger language to ensure the involvement of LSFN.	We request that IAAC make the following revision(s) to the condition: 1) “ Where consultation with Indigenous groups is a requirement of a follow-up program, the Proponent shall discuss co-develop the follow-up program with every group that is interested or has self identified as potentially impacted each group , and shall determine, in consultation with each group, the opportunities for their participation the



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				<p>planning and co-stewardship of in the implementation of the follow-up program, including the final version decision for the program. This will including co-developing plans for training, the conduct of monitoring, the analysis and reporting of follow-up results and whether modified or additional mitigation measure(s) are required, as set out in condition 2.8. “</p>
8	2.10, p. 7	General - Annual Reporting	<p>LSFN generally supports the idea of condition 2.10 on annual reporting; however, we have some revisions that we believe are required to ensure the intention of this condition is achieved.</p>	<p>We request that IAAC make the following revision(s) to the condition:</p> <ol style="list-style-type: none"> 1) To 2.10: “The Proponent shall prepare an annual report for each reporting year that sets out, and conduct an annual meeting with all involved parties, including First Nations, to facilitate transparent reporting” (This will be in addition to, or a part of the communication plan mentioned in Item 1). 2) To 2.10.3: “for conditions set out in this document for which consultation is a requirement, how the Proponent considered or did not consider any views and information that the Proponent received during or as a result of the consultation. The Proponent will identify any occasions when First Nations did not agree with actions or conclusions, and how the conflict was rectified;” 3) To 2.10.5: “the summary of available results and issues that have arisen in the course



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				<p>of the follow-up program requirements identified in conditions 2.8.5;”</p> <p>4) To 2.10.6: “maps displaying the most up-to-date water levels and quality, and locations of Designated Project components and activities, including work camps, quarries and laydown areas;”</p> <p>5) To 2.10.8: “any modified or additional mitigation measure implemented or proposed to be implemented by the Proponent, including how Indigenous Knowledge was incorporated, as determined pursuant to condition 2.8.”</p>
9	2.14, p. 8	General - Information Sharing	<p>LSFN authorities need to be included when the MTI is sending plans to the Agency.</p> <p>Additionally, regarding information sharing more broadly, we would like to see an emphasis on the standard of multi-directional communication processes in which Indigenous groups are not treated as passive recipients of information from the Proponent but as partners in a shared endeavour of mutual understanding.</p>	<p>We request that IAAC make the following revision(s) to the condition:</p> <p>1) “When the development of any plan is a requirement of a condition set out in this document, the Proponent shall submit the plan to the Agency and consult with First Nations authorities (Chief and council or other authority set out by each community) to obtain agreement on the plan prior to construction, unless otherwise required through the condition.”</p>
10	2.16, p. 8	General - Change to the Designated Project	<p>LSFN has concerns with the possibility of the Proponent altering the Project after approval, due to the high level of adverse impacts likely from the current iteration of the Project. If there is to be changes to elements of the Project, First Nations and the Crown need to be involved and</p>	<p>We request that the IAAC make the following revision(s) to the condition:</p> <p>1) Require that the Proponent agree to co-developing (with impacted First Nations) a plan for consultation and engagement requirements should there be substantial changes to the Project that could impact</p>



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			approve, and potentially there needs to be another EA process.	LSFN's rights and interests. The thresholds and definitions for what constitutes "substantial" can be determined in the plan through discussion between MTI, LSFN, and IAAC.
11	3	Fish and Fish Habitat	IAAC provides proposed monitoring and mitigation programs in the draft EA Report, however these programs require further details.	<p>In reference to the mitigation measures and monitoring for surface water proposed by the Agency, IAAC must also require that:</p> <ol style="list-style-type: none"> 1. The Proponent co-develop and provide evidence of agreement with First Nations as to the oversight committee's make-up and terms of reference; 2. The Proponent must provide funding that is driven. By the monitoring and mitigation plan requirements as decided by the committee, not the other way around; 3. The Proponent must develop a physically-based model that can simulate the hydraulics and water quality of the whole aquatic system from the Portage Diversion through Lake Manitoba and Lake St. Martin to Lake Winnipeg. These model simulations will be used to inform monitoring and mitigation plans and provide insight into the future effects of the channels and climate change on the lakes.
12	3.15, p. 12	Fish and Fish Habitat	Condition 3.15 dictates restrictions in regard to a 30 m riparian buffer zone along freshwater frequented by fish. LSFN has four issues with this condition:	<p>We request that IAAC make the following revision(s) to the condition:</p> <ol style="list-style-type: none"> 1) The requirement of a minimum 30 m riparian buffer on all freshwater ecosystems, with a



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			<ol style="list-style-type: none"> 1) This condition should apply to all freshwater ecosystems, not only those 'frequented by fish'. Due to the lack of baseline studies, it is impossible for the Proponent to separate freshwater systems frequented by fish from those that are not. Additionally, freshwater riparian zones provide critical functions to the whole ecosystem regardless of the presence of fish. 2) This condition does not address the restoration process that must occur if this buffer zone is disturbed. The Proponent must develop a restoration plan in consultation with Indigenous groups that includes both design and monitoring components. 3) 30 m buffers should be the minimum buffer size; for riparian areas adjacent to key locations with specific ecological conditions (e.g., sensitive habitat) or cultural importance to LSFN, a larger buffer may be warranted to minimize impacts 4) It is unclear who will be responsible for compliance and enforcement monitoring adhering to this condition, nor how reporting on compliance and enforcement monitoring will occur 	<ol style="list-style-type: none"> commitment to work with LSFN to identify locations where larger buffers may be warranted to protect ecologically and culturally sensitive water bodies. 2) The inclusion of a detailed restoration component that includes engagement with LSFN and incorporation of Indigenous Knowledge on the design and monitoring plan. 3) The inclusion of details of a compliance and enforcement monitoring and reporting component. 4) A requirement for monitoring and adaptive management to ensure that riparian buffers provide adequate protection for fish and fish habitat.
13	3.17, p. 12	Fish and Fish Habitat	Condition 3.17 describes the development of a follow-up program to verify the accuracy of the environmental assessment	We request that IAAC make the following revision(s) to the condition:



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			<p>and determine the effectiveness of the mitigation measures. It states that this follow-up program will be implemented during all phases of the project. LSFN has two main concerns with this condition:</p> <ol style="list-style-type: none"> 1) It is unclear at what stage this program will be implemented. Additional baseline monitoring must occur to accurately identify potential Project impacts before construction. This has been echoed by many Indigenous groups and the Agency in the draft EA Report. This condition should clearly state that the monitoring program will be implemented to monitor baseline conditions for a minimum of 3 years prior to the construction phase. 2) The condition limits monitoring of fish composition, populations, and habitat to a few specific areas. This monitoring must be carried out in all potentially impacted freshwater systems within the RAA as there is currently great uncertainty about the ecological conditions due to a lack of baseline data collection. 	<ol style="list-style-type: none"> 1) Inclusion of the implementation of the monitoring program three years prior to construction and then continually throughout the lifespan of the project 2) A requirement for the assessment and monitoring of all freshwater systems potentially impacted by the proposed Project within the RAA. <p>We request that IAAC make the following addition(s) to the condition:</p> <ol style="list-style-type: none"> 1) The Proponent to fund and support an Indigenous Guardian Monitoring Program for the life of the Project (discussed in further detail in Item 53).
14	3.19, p. 14	Fish and Fish Habitat	<p>Condition 3.19 addresses water quality monitoring as a part of the proposed follow-up program. The condition states that at a minimum, the Proponent must monitor water quality parameters for two years post-commissioning. This is an</p>	<p>We request that IAAC make the following revision(s) to the condition:</p> <ol style="list-style-type: none"> 1) The development of a water quality monitoring program that will be applied



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			<p>unacceptably short amount of time to monitor such a dynamic system. Extensive water quality monitoring should occur throughout the lifespan of the proposed Project, across seasons and yearly, to capture seasonal and annual variations in flooding and flow rates can dramatically alter water chemistry parameters. Clear standards for how water quality should be monitored, including details on methods, indicators, and thresholds, and adaptive management strategies, and are needed. Indigenous Knowledge must also inform this water quality monitoring program.</p>	<p>throughout all phases of the proposed Project. Details in this plan should include:</p> <ol style="list-style-type: none"> a. methods to encompass seasonal and annual variability b. specific indicators and thresholds to be used c. adaptive management strategies if water quality monitoring thresholds are exceeded d. How LSFN will be involved in the program design and implementation, including a commitment to include Indigenous Knowledge and engage community members in the monitoring work e. Communications and reporting expectations
15	4.1, p. 15	Migratory Birds	<p>IAAC notes in condition 4.1 that "The Proponent shall carry out the Designated Project in a manner that protects migratory birds and avoids injuring, killing or harassing migratory birds or destroying, taking or disturbing their eggs, or damaging, destroying, removing or disturbing their nests, while applying Environment and Climate Change Canada's Guidelines to avoid harm to migratory birds." (p. 15).</p> <p>As previously noted in IR-R3-05 comment D, the Proponent has not provided suitable</p>	<p>We request that IAAC make the following revision to the draft proposed condition:</p> <ol style="list-style-type: none"> 1) "The Proponent shall carry out the Designated Project in a manner that protects migratory birds and avoids injuring, killing, or harassing migratory birds or destroying, taking, or disturbing their eggs, or damaging, destroying, removing or disturbing their nests, while applying Environment and Climate Change Canada's <i>Guidelines to avoid harm to migratory birds</i>. This will include best efforts to initiate operations before the breeding bird season (April 1) starts or as close as possible."



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			<p>mitigations to protect migratory birds and avoid adverse impacts, as during non-operation and operation phases water levels are expected to stay within the armour side slopes, that one in every three years water in the LSMOC will increase "...submerging armoured and grassy portions of the lower side slopes where bird nesting potential is expected to be low." (p. 149), and that a one in 300-year flooding event would cause "...floodwaters in LSMOC rise high enough to cover the 15 m (49 ft)-wide grass-covered benches." (p. 149). This flooding has the potential, albeit low, to impact nesting migratory birds and, in the one in 300-year scenario, nesting species at risk (e.g. bobolink). MTI offers no mitigations for these impacts.</p>	
16	4.2, p. 15	Migratory Birds	<p>IAAC notes in condition 4.2 that "The Proponent shall conduct the vegetation clearing required for the Designated Project outside of the migratory bird nesting periods for the Designated Project area as identified in Environment and Climate Change Canada's General nesting periods for migratory birds, unless not technically feasible. In the event that it is not technically feasible, the Proponent shall develop and implement additional measures, including non-intrusive monitoring, to mitigate adverse effects on migratory birds, their eggs and nests. The</p>	<p>We request that IAAC make the following addition(s) to the existing condition:</p> <ol style="list-style-type: none"> 1) "The Proponent shall conduct the vegetation clearing required for the Designated Project outside of the migratory bird nesting periods for the Designated Project area as identified in Environment and Climate Change Canada's <i>General nesting periods for migratory birds</i>, unless not technically feasible. In the event that it is not technically feasible, the Proponent shall develop and implement, additional measures, including non-intrusive monitoring, to mitigate adverse



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			<p>Proponent shall submit these mitigation measures to the Agency prior to their implementation." (p. 15).</p> <p>LSFN is concerned that this condition is not prescriptive enough to ensure the full protection of migratory birds from the adverse effects of vegetation clearing during the migratory bird nesting periods. Specifically, "additional measures, non-intrusive monitoring" is not specific enough to avoid adverse effects. As noted Environment and Climate Change Canada's Guidelines to avoid harm to migratory birds, nest sweeps are not recommended as nest sweeps themselves can cause potential impacts to nesting birds (e.g. increased risk of predation or nest abandonment), and that sweeps should only be conducted in simple habitats (e.g., urban parks, vacant lot, previously cleared area, buildings, snags; ECCC 2023).</p> <p>Environment and Climate Change Canada (ECCC). 2023. "Guidelines to avoid harm to migratory birds." https://www.canada.ca/en/environment-climate-change/services/avoiding-harm-migratory-birds/reduce-risk-migratory-birds.html#toc3</p>	<p>effects on migratory birds, their eggs and nests. The Proponent shall submit these mitigation measures to the Agency prior to their implementation. Per Environment and Climate Change Canada's Guidelines to avoid harm to migratory birds, nest sweeps will only be considered a viable monitoring method in simple habitats. Any vegetation clearing in habitats other than simple habitats will not be permitted.</p>



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17	4.5, 4.5.1, 4.5.2, pgs. 15-16	Migratory Birds	<p>IAAC notes in condition 4.5 that "The Proponent shall implement measures to mitigate the adverse effects of the Designated Project on bank swallow (<i>Riparia riparia</i>) during construction and operation. In doing so, the Proponent shall:</p> <p>4.5.1 maintain, during migratory bird nesting periods, the slopes of all sediment piles, including stockpiles and spoil piles, within active quarries associated with the Designated Project in a manner that deters nesting within these piles; and</p> <p>4.5.2 survey all existing inactive quarry sites for the presence of bank swallow (<i>Riparia riparia</i>) nests immediately prior to reactivating these sites during the nesting periods described in condition 4.2." (p. 15-16).</p> <p>LSFN remains concerned that these conditions are not prescriptive enough to ensure that bank swallows are being adequately protected. Protective slopes and minimum buffer sizes should be prescribed to ensure that bank swallows are being adequately protected. As well, we are concerned about potential impacts to common nighthawk (<i>Chordeiles minor</i>), which should be offered the same protective conditions as bank swallow.</p>	<p>We request that IAAC make the following addition(s) to the existing condition:</p> <ol style="list-style-type: none"> 1) To 4.5.1: "maintain, during migratory bird nesting periods, the slopes of all sediment piles, including stockpiles and spoil piles, within active quarries associated with the Designated Project in a manner that deters nesting within these piles, with a slope of less than 60 degrees; and 2) To 4.5.2: " survey all existing inactive quarry sites for the presence of bank swallow (<i>Riparia riparia</i>) and common nighthawk (<i>Chordeiles minor</i>) nests immediately prior to reactivating these sites during the nesting periods described in condition 4.2, and if nest are located apply a setbacks per guidance from Environment and Climate Change Canada, or Manitoba Conservation Data Centre's Recommended Development Setback Distances and Restricted Activity Periods for Birds by Wildlife Feature Type (whichever is larger)."



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18	4.8, p. 16	Migratory Birds	<p>IAAC notes in condition 4.8 that "The Proponent shall develop, prior to construction and in consultation with Indigenous groups and relevant authorities, a follow-up program to verify the accuracy of the environmental assessment and to determine the effectiveness of all measures used to comply with conditions 4.1 to 4.7. The Proponent shall implement the follow-up program during all phases of the Designated Project." (p. 16).</p> <p>We are concerned by the lack of specific details related to how the follow-up program will verify the accuracy of the environmental assessment, and believe that without minimum expectations outlined in conditions, the follow-up program will not be meet the intended purpose.</p>	<p>We request that IAAC make the following addition(s) to the existing condition:</p> <p>1) To 4.8: "The Proponent shall develop, prior to construction and in consultation with Indigenous groups and relevant authorities, a follow-up program to verify the accuracy of the environmental assessment and to determine the effectiveness of all measures used to comply with conditions 4.1 to 4.7. The Proponent shall implement the follow-up program during all phases of the Designated Project. Should the measures be deemed insufficient, the Proponent will be required to work with Indigenous groups and relevant authorities to develop improved mitigation measures, under an adaptive management framework. The follow-up program must include at least the following:</p> <p>a) Supplemental baseline bird surveys where baseline data is not sufficient to assess effects of the Project; and</p> <p>b) Monitoring bird populations, including migratory birds and species at risk, their distributions, and their use of natural, restored, and compensation habitats and habitats created by the Project construction (e.g. grass covered benches)."</p>



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19	5.1, p. 16	Species at Risk	<p>Pre-construction (or pre-clearing) surveys to identify active nests for short-eared owl (or any avian SAR) is not an acceptable mitigation measure to avoid harm to birds during the breeding period. According to ECCC's avoidance guidelines, pre-construction nest surveys may only be appropriate when all these conditions are met:</p> <ul style="list-style-type: none"> a) conducted by skilled and experienced observers b) using appropriate methodology c) only a few nesting spots or a small community of migratory birds is expected d) the activities will take place in simple habitats, such as an urban park consisting mostly of lawns with a few isolated trees, a vacant lot with few possible nest sites, a previously cleared area which might attract ground nesters, a structure such as a bridge, a beacon, a tower or a building, snags that can often contain primary and secondary cavity nesters, or colonial-breeding species that can often be located from a distance (such as a colony of terns or gulls). <p>The draft conditions for species at risk must include a condition to avoid vegetation clearing within the migratory bird nesting period and during the restricted activity period for short-eared owl, as outlined in Manitoba Conservation</p>	<p>We request that IAAC make the following revision(s) to the condition:</p> <p>1) To 5.1: “The Proponent must avoid vegetation clearing within the migratory bird nesting period and the restricted activity period for short-eared owl (<i>Asio flammeus</i>) (as outlined in Manitoba Conservation Data Center’s Recommended Development Setback Distances and Restricted Activity Periods for Birds by Wildlife Feature Type). The Proponent shall, in consultation with Indigenous groups, conduct pre-construction surveys to identify active nests for short-eared owl (<i>Asio flammeus</i>), and active roosts for little brown myotis (<i>Myotis lucifugus</i>) and northern myotis (<i>Myotis septentrionalis</i>) within the Designated Project area. Surveys for roosts shall include searches of any existing anthropogenic infrastructure that will be removed as part of the Designated Project. The Proponent must avoid all tree removals within the bat maternity roosting period. The maternity roosting window should be based on the best available science, Indigenous Knowledge, and federal/provincial guidelines, but is generally considered to be April 1- September 30 (e.g., in Ontario). In doing so, the Proponent shall: “</p>



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			<p>Data Center's Recommended Development Setback Distances and Restricted Activity Periods for Birds by Wildlife Feature Type (2021). If vegetation is removed during the migratory bird nesting period, this could have detrimental impacts to species at risk birds and their nests in contravention with SARA and the MBCA.</p> <p>Pre-construction (or pre-clearing) maternity roost surveys are not an acceptable mitigation measure to avoid harm to at-risk bats during the maternity roosting period. This is because active maternity roosts are very difficult to identify. The draft conditions for species at risk do not include a condition to avoid tree clearing within the maternity roosting period for bats. If tree clearing is not conducted outside of the bat maternity roosting window, this could impact species at risk bats and their habitat (i.e., mortality to individuals, destruction of maternity roosts).</p> <p>Environment and Climate Change Canada (ECCC). 2023. "Guidelines to avoid harm to migratory birds." https://www.canada.ca/en/environment-climate-change/services/avoiding-harm-migratory-birds/reduce-risk-migratory-birds.html.</p>	



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20	5.2, p. 16	Species at Risk	<p>Draft condition 5.2 states that "if active nests or roosts are identified pursuant to condition 5.1, the Proponent shall establish 500 metre buffer zones around little brown myotis (<i>Myotis lucifugus</i>) and northern myotis (<i>Myotis septentrionalis</i>) active roosts until the roosts are no longer active (5.2.1) ; and establish buffer zones for short-eared owl active nests, and in doing so apply the Manitoba Conservation Data Center's Recommended Development Setback Distances until the nests are no longer active" (5.2.2).</p> <p>This condition must be changed to clarify that a) pre-construction surveys are not appropriate mitigation measures to avoid impacts to species at risk birds and bats during the breeding/maternity roosting periods, and b) active nests and maternity roosts that are identified within or adjacent to the Project Development Area at any time during project works (e.g., during targeted surveys or incidentally) must be protected.</p>	<p>We request that IAAC make the following revision(s) to the condition:</p> <ol style="list-style-type: none"> 1) To 5.2: " If active nests or roosts are identified pursuant to condition 5.1 if active nests or roosts are identified within or adjacent to the Project Area at any time during project works, the Proponent shall: 2) To 5.2.1: " establish 500 metre buffer zones around little brown myotis (<i>Myotis lucifugus</i>) and northern myotis (<i>Myotis septentrionalis</i>) any active maternity roosts within or adjacent to the Project area until the roosts are no longer active; and 3) To 5.2.2 "establish buffer zones for any active bird nests identified within or adjacent to the Project area short-eared owl active nests, and in doing so apply the Manitoba Conservation Data Center's <i>Recommended Development Setback Distances</i> until the nests are no longer active." <p>Manitoba Conservation Data Centre. 2021. "Recommended Development Setback Distances and Restricted Activity Periods for Birds by Wildlife Feature Type." 1- 4. https://www.gov.mb.ca/nrnd/fish-wildlife/cdc/pubs/mbcdc-bird-setbacks-nov2021.pdf</p>



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21	5, p. 16 Genera I	Species at Risk	The draft conditions do not require that the Proponent involve First Nations in the development and implementation of Environmental Monitoring Program Plans. Thorough involvement by LSFN is the only way to ensure that our concerns and knowledge are not subordinated to the Proponent's priorities and interests.	<p>We request that IAAC make the following addition(s) to the existing condition:</p> <ol style="list-style-type: none"> 1) The Proponent shall involve LSFN in a leadership capacity and with equal decision-making authority in the development and implementation of the Environmental Monitoring Program Plans (including review, approval, and implementation). <p>We request that IAAC make the following addition(s) to the condition:</p> <ol style="list-style-type: none"> 1) The Proponent to fund and support an Indigenous Guardian Monitoring Program for the life of the Project (discussed in further detail in Item 53). This Indigenous Guardian Monitoring Program must be built into the EMPPs.



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22	5, p. 16 Genera I	Species at Risk	As per Appendix B of the draft EA Report, these are multiple vascular plant species at risk that have the potential to occur in the PDA (e.g., rough agalinis, Gattinger's agalinis, small white lady's slipper and western prairie fringed orchid). We are concerned that there are no draft conditions that pertain to vascular plant species at risk. Without clear prescriptions to protect plant species at risk, there is reasonable concern that impacts to plants will not be appropriately mitigated and avoided.	<p>We request that IAAC make the following addition(s) to the existing condition:</p> <ol style="list-style-type: none"> 1) The Proponent must develop a Vegetation and Invasive Plant Management Plan (to be approved by LSFN) to protect ecosystems, plant habitats, plant communities, and vegetation with components applicable to the construction and operation phases. This plan must: <ol style="list-style-type: none"> a. Be developed by a Qualified Environmental Professional (QEP). b. include surveys of existing invasive species populations prior to construction. c. include invasive plant control measures to manage established invasive species populations and to prevent invasive species establishment. 2) The Proponent must use a QEP to complete an inventory of rare and at-risk plants in areas not already surveyed. 3) The Proponent must create and maintain a spatial database of known rare and at-risk plant occurrences in the vicinity of Project components that must be searched to avoid effects to rare plants during construction activities. The database must be updated as new information becomes available. 4) The Proponent must implement construction methods to reduce the impact to at-risk plants, by maximizing use of existing access



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				<p>corridors, and constructing roads away from wetlands and known rare plant occurrences.</p> <p>5) The Proponent must take specific steps to protect known occurrences of plant species at risk. Install signage and flagging where necessary, as determined by the QEP, to indicate the boundaries of the exclusion area.</p>



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23	5, p. 16 Genera I	Species at Risk	The draft condition proposed by IAAC does not require the Proponent to maintain current knowledge of Project effects on the status of listed species by tracking updates for species identified by the Province, the Committee on the Status of Endangered Wildlife in Canada, and the Species at Risk Act. The status of listed species may change over time, and the Proponent must stay up to date to ensure compliance with legislation and ensure mitigation is effective and follows the most recent guidelines.	We request that IAAC make the following addition(s) to the condition: 1) The Proponent must maintain current knowledge of Project effects on the status of listed species by tracking updates for species identified by the Province, the Committee on the Status of Endangered Wildlife in Canada, and the Species at Risk Act. Should the status of a listed species change for the worse during the course of the construction of the Project due to Project activities, the Proponent must work with LSFN and relevant authorities to determine if any changes to the associated management plans or monitoring programs are required to mitigate effects of the Project on affected listed species.
24	5, p. 16 Genera I	Species at Risk	The draft conditions do not include requirements for all on-site personnel to complete training to be able to accurately identify and report species at risk in the project area. This is a critical requirement to ensure on-site staff understand and work in compliance with relevant species at risk legislation.	We request that IAAC make the following addition(s) to the existing condition: 1) The Proponent must require all on-site personnel to complete training by a qualified biologist to identify species at risk and its habitat, learn reporting procedures for species at risk observations, and know their legal responsibilities under the Species at Risk Act, Migratory Birds Convention Act, and other relevant legislation. 2) The Proponent must work with contractors, relevant authorities, and Indigenous groups to develop and deliver this training.



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25	5, p. 16 Genera I	Species at Risk	<p>The draft conditions for species at risk do not include a condition to compensate for Class II wetlands that provide habitat for species at risk, including snapping turtle, yellow rail, and northern leopard frog. This is concerning as ephemeral wetlands are extremely important for many herptile and avian species to provide habitat needs and maintain connectivity between terrestrial and aquatic habitats. Without effective mitigation and offsetting, altered habitat function of wetlands has the potential to have adverse impacts on species at risk.</p>	<p>We request that IAAC make the following addition(s) to the existing condition:</p> <ol style="list-style-type: none"> 1) The Proponent must compensate for Class II wetlands that may provide habitat for species at risk. Further, the Proponent must develop, prior to construction and in consultation with Indigenous groups, Environment and Climate Change Canada and other relevant authorities, a wetland compensation plan to offset the residual effects of the Project on wetlands, including Class II wetlands, resulting from project-related changes in surface and groundwater levels that could not be avoided or minimized. The wetland compensation plan must: <ol style="list-style-type: none"> a. Include information on location, size and type of wetlands affected by the Project b. Include a defined mitigation hierarchy that prioritizes mitigation actions to be undertaken, including but not limited to: <ol style="list-style-type: none"> i. Avoid direct effects where feasible; ii. Minimize direct effects where avoidance is not feasible iii. Maintain or improve hydrology where avoidance is not feasible iv. Replace like for like where wetlands will be lost, in terms of functions and



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				<p>compensation in terms of area;</p> <ul style="list-style-type: none">v. Improve the function of existing wetland habitats; andvi. Create new wetland habitat <p>c. Include details to ensure all activities that involve potentially harmful or toxic substances, such as oil, fuel, antifreeze, and concrete, must follow approved work practices and consider the provincial guidelines.</p> <p>d. Include details for monitoring construction and operation activities that could cause changes in wetland functions.</p>



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26	5, p. 16 Genera I	Species at Risk	The draft conditions for species at risk do not include any conditions to minimize light and noise disturbance for species at risk, including bats. This is important to ensure indirect impacts of the project (e.g., light, noise) are appropriately mitigated.	We request that IAAC make the following addition(s) to the existing condition: <ol style="list-style-type: none">1) The Proponent shall control lighting required for the construction and operation of the Project, including the direction, timing, intensity, and glare of light fixtures, in a manner to mitigate adverse effects on bats and other species at risk, while meeting operational health and safety requirements. In doing so, the Proponent shall use directional lighting, including downlighting that targets only the areas where lighting is required.2) The Proponent shall, during all phases of the Project, use and maintain noise-dampening technologies on all vehicles and heavy equipment used in the Project area to mitigate adverse environmental effects of the Project on bats and other species at risk. In doing so, the Proponent shall keep the technologies in good working order through regular inspections.



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27	5.3.1, p. 17	Species at Risk	Draft condition 5.3.1 states that the Proponent shall "install and maintain exclusion fences to prevent northern leopard frog (<i>Lithobates pipiens</i>) and snapping turtle (<i>Chelydra serpentina</i>) from accessing work areas that are likely to result in mortality of frogs and turtles. For work occurring within overwintering habitat, exclusion fencing shall be installed prior to the onset of hibernation". However, remains concerned that this condition is not prescriptive enough to ensure the installation and maintenance of exclusion fencing will adequately protect snapping turtles and northern leopard frog.	We request the IAAC make the following revision(s) to the condition: 1) To 5.3.1: " install and maintain exclusion fences to prevent northern leopard frog (<i>Lithobates pipiens</i>) and snapping turtle (<i>Chelydra serpentina</i>) from accessing work areas that are likely to result in mortality of frogs and turtles. For work occurring within overwintering habitat, exclusion fencing shall be installed prior to the onset of hibernation. The Proponent will be required to develop and implement the exclusion system, including the timing of the exclusion measures and the plans for monitoring and adaptive management of the selected exclusion system, with Indigenous groups and relevant authorities; "
28	5.3.3 p. 17	Species at Risk	Draft condition 5.3.3 states that "if the Proponent observes snapping turtles (<i>Chelydra serpentina</i>) or their eggs within Designated Project work areas, implement, in consultation with Indigenous groups and relevant authorities, modified or additional mitigation measures to protect the observed individuals and nests." LSFN remains concerned that this condition is not prescriptive enough to ensure that snapping turtles, their nests, and eggs are being adequately protected.	We request that IAAC make the following revision(s) to the condition: 1) To 5.3.3: "if the Proponent observes snapping turtles (<i>Chelydra serpentina</i>) or their eggs within Designated Project work areas, implement, in consultation with Indigenous groups and relevant authorities, modified or additional mitigation measures to protect the observed individuals and nests. This will include protection of nests with a nest protector (e.g. nest cage) using setbacks determined by a qualified biologist and Indigenous Knowledge, ensuring that wildlife monitors or another qualified person are available to assist if



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				<p>snapping turtle is encountered during project works or on roadways, and enforcement of speed limits during the nesting season for snapping turtles.”</p>
29	5.4, p. 17	Species at Risk	<p>Draft condition 5.4 states that "the Proponent shall develop, in consultation with Indigenous groups and relevant authorities, and implement a follow-up program to monitor the effectiveness of buffer zones established pursuant to condition 5.2 for little brown myotis (<i>Myotis lucifugus</i>), northern myotis (<i>Myotis septentrionalis</i>) and short-eared owl (<i>Asio flammeus</i>). The Proponent shall implement the follow-up program during construction."</p> <p>LSFN remains concerned that this condition is not prescriptive enough to ensure that species at risk are being adequately protected. This condition is very limited in scope and does not account for the monitoring required to assess residual effects of the Project on all species at risk.</p>	<p>We request that IAAC make the following addition(s) to the existing condition:</p> <p>1) To 5.4: “The Proponent shall develop, in consultation with Indigenous groups and relevant authorities, and implement a follow-up program to verify the accuracy of the environmental assessment and to determine the effectiveness of all mitigation measures to avoid harm to species at risk and its habitat. As part of the development of the follow-up program, the Proponent shall identify performance indicators that shall be used by the Proponent to evaluate the effectiveness of mitigation measures. The Proponent shall implement the follow-up program during all phases of the Project and monitor for residual effects for all species at risk attributed to the proposed Project. The Proponent shall involve Indigenous community members and Indigenous Guardian Programs throughout each aspect of the development and implementation of this follow-up program. monitor the effectiveness of buffer zones established pursuant to condition 5.2 for little brown myotis (<i>Myotis lucifugus</i>), northern myotis”</p>



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				<p>(Myotis septentrionalis) and short eared owl (Asio flammeus). The Proponent shall implement the follow-up program during construction."</p>
<p>30</p>	<p>6.1, pgs. 17-18</p>	<p>Health and Socio-economic Conditions of Indigenous Peoples</p>	<p>The requirement that the Proponent shall develop and implement a protocol for receiving and addressing feedback is not detailed enough. The Proponent must co-develop with the First Nations a complaint resolution mechanisms and communication strategy.</p>	<p>We request that IAAC make the following revision(s) to the condition:</p> <ol style="list-style-type: none"> 1) Require that terms for consultation with Indigenous groups be clearly defined including multiple avenues for reporting complaints. It is important to ensure there are avenues that are not led by the Proponent. Indigenous peoples need to feel safe and trusting in the process. This should be treated through the communication plans discussed in Item 2.
<p>31</p>	<p>6.3, p. 18</p>	<p>Health and Socio-economic Conditions of Indigenous Peoples</p>	<p>The requirement that the Proponent shall develop a follow-up program to verify the accuracy of the EA as it pertains to adverse environmental effects from the Project on the health of Indigenous Peoples is vague. The Proponent should be required to co-develop preventative measures and processes (with LSFN) that</p>	<p>We request that IAAC make the following revision(s) to the condition:</p> <ol style="list-style-type: none"> 1) The Proponent shall develop a follow-up program to verify the accuracy of the EA as it pertains to adverse environmental and socio-economic effects from the Project on the health and wellbeing of Indigenous Peoples. The Proponent should be required to work



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			<p>address impacts due to overall wellbeing resulting from poor air quality / contaminants.</p>	<p>with LSFN to develop objectives, indicators, thresholds of acceptable change, and responses that address impacts due to overall health and wellbeing resulting from poor air quality/contaminants, and in the context of cumulative effects experienced over previous decades in the context of past hydro-development projects.</p>
<p>32</p>	<p>6.4, p. 18</p>	<p>Health and Socio-economic Conditions of Indigenous Peoples</p>	<p>We wish to reiterate that the following comment is provided notwithstanding LSFN’s position that the Project should not be approved as currently proposed. The requirement that the Proponent shall develop a follow-up program to verify the accuracy of the EA as it pertains to adverse environmental effects from the Project on the health of Indigenous Peoples is vague and inadequate. The Proponent should be required to develop preventative measures and processes that address impacts due to overall health and wellbeing resulting from contaminants to country food sources as well and general mental health. This is a big gap in the draft EA Report: namely that IAAC incorrectly has determined that the Project is not likely to cause significant adverse effects on Indigenous peoples’ health and socio-economic conditions. We have discussed why this is an incorrect determination in the cover letter and comment table. Namely this project, if it goes ahead, will</p>	<p>We request that IAAC make the following revision(s) to the condition:</p> <ol style="list-style-type: none"> 1) The Proponent shall co-develop (with First Nations) a follow-up program to verify the accuracy of the EA as it pertains to adverse environmental effects from the Project on the health and cultural wellbeing of Indigenous Peoples. The Proponent must be required to work with each impacted Indigenous community to develop objectives, indicators, thresholds, and responses that address impacts due to overall wellbeing resulting from contaminants to country food sources and other barriers to cultural practices associated with the Project and in the context of cumulative effects experienced over previous decades in the context of past hydro-development projects.



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			<p>have significant adverse impacts on the mental health and wellbeing of members and will impact the ability for members to access country foods. As such, it is necessary to develop appropriate mitigations that will be enforceable through conditions.</p>	
<p>33</p>	<p>6.5, p. 19</p>	<p>Health and Socio-economic Conditions of Indigenous Peoples</p>	<p>The requirement that the Proponent shall develop a follow-up program to verify the accuracy of the EA as it pertains to adverse environmental effects from the Project on the health of Indigenous Peoples is vague and inadequate. The Proponent should be required to develop preventative measures and processes that address impacts due to overall well-being resulting from poor water quality / quantity.</p>	<p>We request that IAAC make the following revision(s) to the condition:</p> <ol style="list-style-type: none"> 1) The Proponent shall co-develop with LSFN a follow-up program to verify the accuracy of the EA as it pertains to adverse environmental and socio-economic effects from the Project on the health of Indigenous Peoples. The Proponent must be required to work with each impacted First Nation to develop objectives, indicators, thresholds, and responses that address impacts due to overall health and wellbeing resulting from poor water quality/contaminants, and in the context of cumulative effects experienced over previous decades in the context of past hydro-development projects.
<p>34</p>	<p>6, General I</p>	<p>Health and Socio-economic Conditions of Indigenous Peoples</p>	<p>As detailed in the EA Report Comment table (e.g., comments on section 7.4.1.1), we strongly disagree with the Proponent's conclusions of non-significance regarding potential project impacts on Indigenous peoples' health and socio-economic conditions, as well as fish and fish habitat. Based on our experience and knowledge</p>	<p>We request that IAAC make the following addition(s) to the proposed draft conditions:</p> <ol style="list-style-type: none"> 2) The Proponent will provide financial and in-kind support for the establishment and operation of a an LSFN Country Foods Programs. This program will be planned, led, supervised, and monitored by LSFN community and leadership. Support may be



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			<p>of the region and its inhabitants (both human and otherwise), we expect the Project to have significant impacts on our traditional territories, including to our ability to carry out traditional harvesting, hunting, and trapping activities and other practices on the lands and waters. Damage to and/or loss of these practices will have significant socio-economic implications for our communities.</p> <p>A key way that the Proponent and IAAC can help proactively mitigate potential impacts in this area is through the support of cultural programs to protect our culture and connection to the land. One example is through a Country Foods Program. 'Country foods' are those harvested from the land and water, including wild game, fish, and plant foods. Access to and consumption of country foods are central to the physical, mental, and cultural health of Indigenous communities, supporting both good nutrition and connections to the land. What's more, safe access to country foods is inseparable from Indigenous land rights and sovereignty. Support for a Country Foods Program will help mitigate and off-set some of the expected impacts to the socio-economic condition of affected Indigenous groups in the Interlake region.</p>	<p>provided either by way of direct funding or in-kind support.</p>



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35	6, General I	Health and Socio-economic Conditions of Indigenous Peoples	<p>The planning and assessment of this project is taking place in the context of experiences of historic, recent, and ongoing trauma on the part of Indigenous groups in the Interlake region. These processes have reopened old wounds and aggravated persistent ones. The Project, even the consideration of it, is already causing stress, fear, anger, anxiety, solastalgia, post-traumatic stress disorder, feelings of loss of agency, and depression. If approved, the Project will, through impacts to the land, waters, and wildlife of the Interlake region, have serious adverse effects on the cultural, spiritual, physical, and mental well-being of our members. It is incumbent on the Proponent and the Crown to proactively provide support for the health of impacted communities and this extends to the latter's need for mental health and healing resources.</p>	<p>We request that IAAC make the following additional conditions:</p> <ol style="list-style-type: none"> 1) The Proponent must work with LSFN to identify mental health needs and services and provide funding for mental health and Nation-specific healing services. 2) The Proponent must work with LSFN to develop a cultural resiliency program that is Nation-specific and identifies different cultural programs required for LSFN to help protect and heal the lands and waters and protect the connection of members to the lands, waters, and culture. This could include youth land camps, food programs, language programs, elder-youth programs, and more. These types of commitments have been supported in other EA processes (See for example the MCFN case referenced below). <p>Reference Nishma-Miller, Jeff. 2022. "The Mikisew Cree First Nation Culture & Rights Assessment." The Centre for Environmental Assessment Research (CEAR): 2-5. https://ok-pear.sites.olt.ubc.ca/files/2023/01/The-Mikisew-Cree-First-Nation-Culture-and-Rights-Assessment-UBC-CEAR-2022.pdf</p> <p>Gibson-MacDonald, Ginger and Firelight Research Inc. 2019. "Cultural Investments: Responding to Industrial Impacts". 4-48. https://drive.google.com/file/d/1X_cOd7zo5ga0N_CjtkukaAACHpZSqq0v4/view</p>



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36	6.1	Surface Waters	<p>LSFN is extremely concerned regarding the dewatering and loss of wetlands in the PDA, which have no proposed mitigations. The Birch Creek basin is predicted to be reduced by 27.4%, and the Buffalo Creek basin will be reduced by 51.5%. There have not been any proposed mitigations to offset this loss of flow. The Proponent has not considered additional impacts to these basins from the current drought and long-term climate change, both of which could compound with the Project impacts and lead to direct negative and irreversible effects on the aquatic health of the drainage basins. Since the same wetlands were also severely impacted by the construction and operation of the EOC during the 2011 and 2014 floods, and no rehabilitation of the area has ever taken place or even been proposed, these new impacts are cumulative to the already heavily affected wetlands. Many of the wetlands in the area affected by a loss of surface flow are also recipients of groundwater discharge which will also be impacted by the construction of the LSMOC</p>	<p>We request that IAAC issue the following additional conditions:</p> <ol style="list-style-type: none"> 1) The Proponent must be required to develop a concrete mitigation and monitoring plan, in tandem with offsets to reduce the impacts arising to drainage areas throughout the PDA and LAA as a result of the Project construction. These mitigations, monitoring plans, and offsets must be co-developed by MTI and the First Nations and must include tangible action items, follow up plans, and accountability measures. 2) The Agency must require the Proponent to provide a study which details how current drought conditions and long-term climate change will impact the drainage areas located throughout the PDA and LAA. This study must include at least 10 years of past data, and project at least 50 years into the future.



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			<p>which will result in groundwater drawdown. The net result will be the drying out of significant wetland areas between the LSMOC and the Dauphin River including Big Buffalo Lake and the Buffalo Creek wetlands complex. Environmental and Climate Change Canada (ECCC) agreed that drainage interception would cause drying out in the creeks and wetlands downstream of the channel and possible pooling upstream of the channels. ECCC was also of the view that the conclusion regarding drying out was well supported, but the exact effect to these wetlands and the extent of those effects was not possible to predict. The effects caused by dewatering will be negative to the entire ecosystems (aquatic, and terrestrial) in the wetlands located between the LSMOC and the Dauphin River and bounded by Lake St. Martin and Lake Winnipeg. Any vague proposals to “replace” lost wetlands are not acceptable, as this method has largely been unsuccessful in other parts of northern Canada, so it is unlikely to be successful in the Interlake Region.</p>	



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37	6.1 p. 45-46	Surface Waters	<p>LSFN is concerned that the EA does not consider impacts to water quality outside of the effects of the construction and operation of the outlet channels.</p> <p>Because of this, the assessment is that there will not be substantive changes to water quality within the PDA, LAA, or RAA, apart from sediment transport and erosion.</p> <p>As such, the Proponent has only proposed mitigations and monitoring to address only a portion of predicted project-related impacts. This includes monitoring of depressurization groundwater and runoff from cattle where these are being intercepted and rerouted to outside drains.</p> <p>This is not the only predicted source for water quality degradation however, as the channels will be used to divert highly nutrient-enriched and contaminated flood waters from Lake Manitoba directly into Lake St. Martin via the LMOC, and into Lake Winnipeg via the LSMOC.</p> <p>Even though the Project itself will not generate this poor water quality, the channels will be the conduit that will introduce these waters into Lake St.</p>	<p>We request that IAAC issue the following additional conditions:</p> <ol style="list-style-type: none"> 1) The Agency must require the Proponent to co-develop, with the First Nations, a mitigation and monitoring plan to address the influx of nutrient enriched waters passing into Lake Winnipeg via the LMOC and LSMOC. This plan must contain clear action items, thresholds, and accountability measures and must include participation of Indigenous monitors.



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			<p>Martin and will degrade the water quality over time. We argue that the impact is negative, potentially large in magnitude, likely irreversible and cumulative in terms of its downstream effects (i.e., downstream of the RAA boundary) the longer the project operates.</p>	
<p>39</p>	<p>7.1, pgs. 19-20</p>	<p>Current Use of Lands and resources for Traditional Purposes</p>	<p>Community specific communication and engagement plans are a needed mitigation measure. The measures as written are a good start but require some changes.</p>	<p>We request that IAAC make the following alteration(s) to the draft proposed condition:</p> <p>1) To 7.1: “The Proponent shall co-develop, with each First Nation prior to construction and in consultation with Indigenous groups and relevant authorities, a communication and engagement plan for each Indigenous group to share information on the adverse environmental effects of Designated Project activities as they relate to the current use of lands and resources for traditional purposes. The Proponent shall implement and maintain the communication plans during all phases of the Designated Project and shall review the plans every two years and update them as needed. “</p> <p>We request that IAAC make the following additional sub conditions:</p> <p>1) 7.1.2.5 provide notice to potentially affected Indigenous groups of impending operational procedures, such as opening the channels, as soon as a decision has been made</p>



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				2) 7.1.4 co-develop a complaint resolution process with each First Nation, including the use of third-party resolution and binding language to ensure resolution 3) 7.1.5 Communications and engagement plans must be approved by each respective Indigenous group prior to Project construction. The Proponent must demonstrate that these approvals have been received from all impacted Indigenous groups prior to construction.
39	7.2, pgs. 20-21	Current Use of Lands and resources for Traditional Purposes	IAAC is maintaining the role of the EAC as the primary mechanism for Indigenous engagement if the Project is approved, but LSFN has repeatedly stated that the EAC as described is an unacceptable avenue for Project engagement activities. While the stated mitigations are an improvement on the structure of the EAC, there is severe distrust that the EAC itself needs to be dropped and a new structure needs to be developed. The issues with the EAC, which have been repeatedly shared with the Proponent and IAAC (see letter).	We request that IAAC make the following revision(s) to the condition: <ol style="list-style-type: none"> 1) IAAC must clearly state in the EA Report that the existing EAC is an inadequate mechanism to accomplish consultation and monitoring initiatives. 2) The Proponent must work with all Indigenous groups who identify as impacted communities to develop an agreeable multilateral structure for engagement, approvals, and communications, with proper mechanisms for reporting and accountability, and where change can be affected by Indigenous groups and other concerned parties. This new system needs to be Indigenous-led and center Indigenous leadership. The Proponent will not direct this



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				<p>new system and will not be in charge of determining its membership.</p> <p>3) The Proponent must commit to collaboratively developing a dispute resolution mechanism that is mutually agreeable and is rooted in Indigenous teachings on finding resolutions.</p> <p>4) The Proponent must commit to developing an engagement plan that is trauma informed:</p> <ul style="list-style-type: none">a. Empowering community members to be involved and build resilience.b. Identify ways to build trust between the Proponent and Indigenous groupsc. Ensure that LSFN members have the resources needed to make informed decisions.d. Ensure sufficient and culturally appropriate resources for LSFN to be involved in technical decisions and meetings.



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40	7.3, p.21	Current Use of Lands and resources for Traditional Purposes	<p>We are aware that the Proponent has proposed, as an accommodation measure, inviting Indigenous groups to co-develop and participate in ground-breaking ceremonies for the channels, asserting that this would be a way of addressing community concerns regarding Reconciliation. LSFN has not expressed an interest in or the need for such activities. On the contrary, we find this proposal insulting in the context of the Proponent's history of disregarding our concerns, perspectives, knowledge, and Aboriginal and Treaty rights throughout the assessment process thus far. It is appalling to suggest that such an exercise could constitute an act of reconciliation. As we have repeatedly illustrated, the proposed Project will result in a decimation of our way of life and a blatant breach of our Aboriginal and Treaty Rights. As such, the Project, as proposed is completely unacceptable and the proposition of a "ceremony" prior to the severe impacts on our rights and interests is unacceptable.</p>	<p>We request that IAAC make the following addition(s) to the Report:</p> <ol style="list-style-type: none"> 1) Clarify their envisioned purpose for the proposed ceremonial requirement. As it has been proposed by the Proponent as part of their mitigation and accommodations measures, LSFN does not find it an acceptable or meaningful provision. LSFN rejects the idea of pre-memorialsizing a disaster of the Crown's own making, that will be borne by First Nations peoples.
41	7.4, p.21	Current Use of Lands and resources for Traditional Purposes	<p>The requirement for Project personnel to undergo cultural awareness training is an important and necessary step to protect LSFN. However, this training needs to be developed and run by LSFN.</p>	<p>We request that IAAC make the following addition(s) to its proposed conditions:</p> <ol style="list-style-type: none"> 1) To 7.4: "The Proponent shall provide funding and appropriate resources for Indigenous groups to develop and provide cultural awareness training to all Project personnel, including to Proponent



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				<p>staff. develop, prior to construction and in consultation with Indigenous groups, cultural awareness training for all employees and contractors associated with the Designated Project. The Proponent shall implement the training prior to the start of construction and during all phases of the Designated Project. “</p>
42	7.5, p. 21	Current Use of Lands and resources for Traditional Purposes	<p>The Agency proposes that the Proponent "provide opportunities for Indigenous groups to receive training to support their participation in follow-up and monitoring programs."</p> <p>It is insufficient for LSFN to be merely involved in Proponent-designed and -led monitoring programs which will not prioritize and address outstanding Indigenous concerns or ensure Indigenous decision-making.</p>	<p>We request that IAAC make the following addition(s) to the condition:</p> <p>1) To 7.5: “ The Proponent shall provide support for the creation and implementation of Indigenous-led follow-up and monitoring programs, as well as opportunities for Indigenous groups to receive training to support their participation in follow-up and monitoring programs.”</p>
43	7.9, p.22	Current Use of Lands and resources for Traditional Purposes	<p>The Agency writes that "The Proponent shall design and build crossing structures over the outlet channels to facilitate safe access through the Designated Project area..."</p> <p>This is a crucial requirement but must be more specific. The Proponent has thus far refused to propose potential crossing locations for the LSMOC and indicated that financial consideration will be the determining factor in whether such crossings will be built.</p>	<p>We request that IAAC make the following addition(s) to the condition:</p> <p>1) To 7.9 “ The Proponent shall design and build a sufficient number of appropriate crossings over the LSMOC, where sufficiency and appropriateness must be determined in consultation with relevant Indigenous groups crossing structures over the outlet channels to facilitate safe access through the Designated Project area by Indigenous groups, so they are able to cross. In doing so, the Proponent shall: “</p>



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44	7.10, p. 22	Current Use of Lands and resources for Traditional Purposes	The Agency has included a requirement that the Proponent prohibit, "during all phases of the Designated Project, employees and contractors associated with the Designated Project from fishing, hunting, trapping, gathering and using recreational vehicles for any purposes not associated with the Designated Project," etc. However, prohibition without enforcement or consequence is meaningless	We request that IAAC make the following addition(s) to the condition: 1) To 7.10: " The Proponent shall prohibit, during all phases of the Designated Project, employees and contractors associated with the Designated Project from fishing, hunting, trapping, gathering and using recreational vehicles for any purposes not associated with the Designated Project, within the Designated Project area, or using the Designated Project area to access lands outside the Designated Project area for fishing, hunting, trapping, gathering and using recreational vehicles, unless an employee or contractor is provided access by the Proponent as a member of an Indigenous group for traditional purposes or for exercising Aboriginal rights, to the extent that such access is safe. This prohibition must be enforceable, with actions to be taken if they are violated. "
45	7.12, p. 22	Current Use of Lands and resources for Traditional Purposes	IAAC notes in condition 7.12, that "The Proponent shall develop, prior to construction and in consultation with Indigenous groups and relevant authorities, a wetland compensation plan to offset the residual effects of the Designated Project on wetlands, including class 2 wetlands, resulting from project-related changes in surface and groundwater levels that could not be avoided or minimized." (p. 22) and that the	We request that IAAC make the following addition(s) to the condition: 1) For 7.12.1: "establish performance standards for compensated wetlands, including criteria by which these standards will be measured, which will include confirmation of the presence / absence of species at risk to assess whether wetland compensations are providing sufficient amount and quality of wetlands to allow for effects on species are risk to be mitigated; and"



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			<p>Proponent will "establish performance standards for compensated wetlands" (p. 22) and "ensure that the wetland compensation area is larger than the area of the wetland area being compensated." (p. 22)</p> <p>LSFN remains concerned that this condition is not specific enough to be fully protective of listed species at risk like yellow rail (<i>Coturnicops noveboracensis</i>). Specifically, without firm performance standards and an established wetland compensation ratio, we remain concerned that residual effects to wetlands and the species that rely upon them for habitat will not be sufficiently compensated for or mitigated.</p>	<p>2) For 7.12.2: " ensure that the wetland compensation area is larger than the area of the wetland area being compensated, at a minimum of 3:1 compensation."</p>
46	7.15, p. 23	Current Use of Lands and resources for Traditional Purposes	<p>The Proponent has stated that approximately 267.5 ha of potential large mammal and furbearer denning habitat will be affected during winter clearing for the Project. The IAAC states that if clearing vegetation during time periods when denning furbearers are denning, the Proponent must conduct, prior to construction, pre-construction surveys within the Project development area to identify active denning sites. If active den sites are discovered, the Proponent will establish no work buffer zones for these dens, corresponding to the setback</p>	<p>We request that IAAC make the following addition(s) to the condition:</p> <p>1) The Proponent shall determine and implement, in consultation with LSFN, appropriate no work buffer zones around active denning sites, suitable methodology for surveying for (and monitoring) active denning sites, and other mitigation measures that must be taken to avoid impacts to culturally important large mammals and furbearers.</p>



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			<p>distances in Appendix D until the den is no longer active.</p> <p>The Proponent has not provided enough information about the den sweeps that will be completed prior to construction activities, nor additional measures that will be taken to prevent the mortality of culturally important large mammals and furbearers that den or burrow, to determine whether the proposed mitigation measures will be sufficient to avoid impacts to these species.</p>	
47	7, General I	Current Use of Lands and resources for Traditional Purposes	<p>As detailed above, we do not agree with the Proponent's conclusion regarding potential project impacts to current use. Based on our own experiences and deep knowledge of the Interlake region, we anticipate that the Project will have irrevocable significant adverse impacts on Indigenous groups' ability to maintain their current use patterns and practices. As the Proponent does not anticipate such impacts, it has failed to propose appropriate mitigation, accommodation, or off-setting measures.</p> <p>A key way the Proponent can proactively address anticipated impacts to current use practices is through the financial support of cultural resiliency programs. Changes to LSFN member's ability to access and use</p>	<p>We request that IAAC make the following addition(s) to the condition:</p> <p>1) The Proponent will fund an LSFN-specific cultural resiliency program as a form of mitigation and off-setting of anticipated impacts to our ability to maintain our current use patterns and practices due to Project construction and operation. These programs will be Indigenous-designed and -led (see also Item 38 for more information).</p>



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			<p>the lands and waters of the Interlake region will have implications for cultural continuity and intergenerational knowledge transfer. Cultural resiliency programs will be crucial to counter-balancing these effects.</p>	
<p>48</p>	<p>8.1, 8.2, 8.3, 8.4, 8.5, 8.7, pgs. 25-27</p>	<p>Physical and Cultural Heritage and Structures, Sites or Things of Historical, Archaeological, Paleontological or Architectural Significance</p>	<p>LSFN appreciates that IAAC has included many of our previously stated requirements regarding heritage monitoring and mitigation. However, we need stronger language and more Indigenous involvement in these plans. We do not trust the Proponent to properly consult with us in preparing plans, assessments, and training, and so this will need to be done between a qualified third-party and LSFN.</p>	<p>We request that IAAC make the following addition(s) to the condition:</p> <ol style="list-style-type: none"> 1) In 8.1, 8.2.5, 8.3, the qualified individual who will develop plans, assessments and training must be co-chosen by MTI and Indigenous groups. This individual cannot be an employee, or otherwise unduly influenced by, MTI. 2) The Heritage and archeological plans, and heritage training must be co-developed with, and approved by, LSFN before Project work can commence. 3) The heritage and archeological plans must incorporate plans to work with the Indigenous Guardian / Monitoring Program (discussed further in Item 53). 4) The same individual developing the heritage and archeological plans must also develop the chance find protocol in 8.2, and the cultural heritage management plan in 8.7, both of which will need be develop with, and approved by, LSFN before work commences. 5) There will be reporting and dispute resolution processes between the qualified individual producing these plans and training in



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				<p>collaboration with LSFN, to ensure that we are being adequately consulted.</p>
49	8.6, p. 27	Physical and Cultural Heritage and Structures, Sites or Things of Historical, Archaeological, Paleontological or Architectural Significance	The consultation for work camps, quarries and laydown areas needs to be comprehensive, and include co-development, mapping, and final approval of locations by LSFN and other Indigenous groups before work commences. This will be needed, as MTI has not properly documented all of the heritage sites and considered all of the impact pathways that we have shared with it.	<p>We request that IAAC make the following revision(s) to the condition: To 8.6: “The Proponent shall select, in consultation with Indigenous groups and relevant authorities, the final locations for work camps, quarries and laydown areas. To achieve this, the Proponent will co-facilitate mapping sessions with Indigenous groups to find appropriate locations for work infrastructure.</p>
50	8.9, 8.10, pgs. 28-29	Physical and Cultural Heritage and Structures, Sites or Things of Historical, Archaeological, Paleontological or Architectural Significance	The Project follow-up programs must be co-developed between MTI and LSFN, with LSFN having final approval.	<p>We request that IAAC make the following revision(s) to the condition: 1) The Proponent must co-develop, fund, and resource the follow-up plans, including dispute resolution processes. Clear evidence of joint approval between the Proponent and Indigenous groups must be provided to the Agency before work commences.</p>
51	8, pgs. 25-29 General	Physical and Cultural Heritage and Structures, Sites or Things of Historical, Archaeological,	The Proponent's proposed plans regarding the protection of cultural heritage is insufficient. The proposed Heritage Resource Protection Plan (HRPP) has not been revised in response to our concerns (which have been shared with the Proponent over the course of multiple	<p>We request that IAAC make the following addition(s) to the condition: 1) The Proponent must commit to revising the existing HRPP through collaboration with Indigenous groups with the goal of prioritizing cultural heritage, continuity, and rights</p>



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		Paleontological or Architectural Significance	<p>rounds of Information Requests), which include: the destruction of an ancient ancestral village, impacts to cultural use and continuity, a lack of protection for Indigenous rights and interests related to heritage resource protection, and a lack of Indigenous input into the plan and Indigenous participation in its implementation.</p> <p>There has also been a failure on the part of the Proponent to address the necessity of Indigenous-led heritage and archaeological monitoring activities which include concrete accountability mechanisms to ensure adherence to heritage protocols (e.g., chance find protocols). The Proponent has not made a concrete commitment to funding training for Indigenous monitors.</p>	<p>2) The Proponent must commit to involving LSFN in all matters of cultural heritage including the creation and implementation of an Indigenous-led archaeological monitoring program</p> <p>3) The Proponent must provide financial support for the training of Indigenous heritage and archaeological monitors, including the costs of transportation, accommodation, supplies, and compensation for time as appropriate</p> <p>4) The Proponent must avoid impacts to ancestral village sites and accommodate LSFN for any unavoidable impacts (though the Nations stand by our strong rejection of the Crown accepting destroying one of Manitoba's oldest heritage sites).</p>
52	9.1, p. 29	Indigenous Monitors	<p>First Nations monitors need to be doing more than participating in follow-up monitoring and culturally significant work, there needs to be an Indigenous Monitoring program that is developed before Project construction can begin, and as a condition for Project approval.</p>	<p>We request that IAAC make the following addition(s) to the condition:</p> <p>1) The Proponent must fund (including training) and provide resources for Indigenous communities to develop and run an Indigenous Guardian / Monitoring Program. Guardians are knowledgeable members of local Indigenous groups whose deep knowledge of their traditional territories help them safeguard those territories through monitoring activities in the Interlake region. This program will be involved in all aspects of</p>



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				<p>follow-up monitoring, archeological monitoring, culturally significant work, and environmental monitoring. The program also must have appropriate power to stop work if there is a concern or chance find, and there needs to be a dispute resolution mechanism between the program and the Proponent.</p> <p>2) The Proponent must collaborate with Indigenous groups to draft relevant Environmental Management Program Plans (EMPPs) to ensure that their interests, concerns, and knowledge form a meaningful part of EMPP creation and implementation. This needs to include review and consent on the final versions of EMPPs (and funding for this work).</p> <p>3) The Proponent must involve First Nations in a leadership capacity with the development and of the EMPPs (including review, approval, and implementation)</p>
54	12.3, p. 31	Accidents and Malfunctions	<p>The requirement for the Proponent to consult with LSFN in the development of an accidents and malfunctions response plan is vague and contains no mechanisms to ensure LSFN's rights and interests are protected. LSFN's approval of the response plans, clean up and remediation plans, and adaptive management plans should be a condition for project approval. The Proponent should be required to develop accident and malfunction response mechanisms and</p>	<p>We request that IAAC make the following revision(s) to the condition:</p> <p>1) Terms for consultation with Indigenous groups should be clearly defined, with requirements to seek LSFN's approval of any response plans; to consider impacts to all VCs defined by LSFN; and to consider impacts in the context of cumulative effects experienced by LSFN.</p> <p>We request that IAAC make the following addition(s) to the condition:</p>



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			<p>processes that address impacts due to accidents and malfunctions on valued components identified in by Nations. This should include adequate consideration of cumulative effects to VCs to ensure accidents and malfunctions do not surpass thresholds defined by LSFN. Responses, including clean-up and remediation activities, must employ a sufficient temporal scope of impacts using worst-case scenarios that extend to a point when effects are no longer measurable.</p>	<p>1) The Proponent must be required to employ sufficiently long-time scales for impacts using worst-case scenarios that extend to a point when effects are no longer measurable.</p>
55	12.5.2, p. 31	Accidents and Malfunctions	<p>Notification requirements contain no description of actions to be taken by the Proponent to mitigate effects to the environment and to Indigenous rights and interests as outlined in the response plan.</p>	<p>We request that IAAC make the following addition(s) to the condition:</p> <p>1) The Proponent must include a description of actions to be taken by the Proponent to mitigate effects to the environment and to Indigenous rights and interests as outlined in the response plan</p>
56	12.5.4.2, p.32	Accidents and Malfunctions	<p>This condition contains no requirement for 90-day post-accident reports to include additional adaptive mitigation, reclamation, and monitoring measures that consider impacts to LSFN's rights and interests. The time scale for any specific mitigation, reclamation, and monitoring work plan for an accident or malfunction must use worst-case scenarios, extending to point when effects are no longer measurable.</p>	<p>We request that IAAC make the following addition(s) to the condition:</p> <p>1) To 12.5.4.2: “ a description of the modified or additional measure(s) implemented by the Proponent to mitigate and monitor residual adverse environmental effects, including additional adaptive mitigation, reclamation, and monitoring measures that consider impacts to Indigenous groups' rights, and to carry out any required progressive reclamation; and “The condition must require the Proponent to use a</p>



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				<p>sufficiently long-time scale for any specific mitigation, reclamation, and monitoring work plan that extends to a point when effects are no longer measurable.</p>
<p>57</p>	<p>12, p. 30-32 General</p>	<p>Accidents and Malfunctions</p>	<p>The First Nation communities unfortunately already have extensive experience with serious and devastating local emergencies; the effects of the 2011 flood are still very much felt by the region's Indigenous communities with some having been forced to abandon their homes and communities completely due to flooding damage. It is crucial that the Proponent acknowledge the lasting trauma that has resulted from these experiences and that it takes an appropriately vigilant and compassionate approach in its emergency planning and response.</p>	<p>We request that IAAC make the following addition(s) to the condition:</p> <ol style="list-style-type: none"> 1) The Proponent will work with LSFN to design appropriate and effective, Nation-specific emergency response plans covering all potential emergency scenarios. These plans will: <ol style="list-style-type: none"> a. Be designed collaboratively with LSFN to ensure that our priorities are centered in emergency planning and decision-making b. Cover a range of scenarios from the more likely to the worst-case c. Take into account that Indigenous groups in the Interlake region have experienced, and continue to experience, varying degrees of trauma due to past experiences with flood-based emergencies;



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				<ul style="list-style-type: none"> d. Approaches to engagement for the creation of LSFN emergency response plans will be trauma-informed and consider the potential emotional and psychological needs of our community e. Include clear communications protocols to support the rapid and effective distribution of critical information in the event of an emergency <p>2) The Proponent will fund appropriate emergency preparedness training for LSFN</p> <ul style="list-style-type: none"> a. This training will be trauma-informed, taking into our varying experiences with previous, large-scale emergencies and their lasting impacts b. Training opportunities will be offered at regular intervals to ensure necessary knowledge and skills remain up to date c. The Proponent will fund appropriate emergency response materials and resources, considering the specific effects a given possible emergency will have on our community
58	13, p. 33	Schedules	When scheduling Project activities, the Proponent needs to consult with LSFN to	We request that IAAC make the following addition(s) to the condition:



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			<p>avoid conflict of harvesting, hunting, or trapping schedules.</p>	<p>1) To 13.2: “The Proponent shall co-develop and seek feedback from First Nations on project scheduling in order to avoid key harvesting times, and then submit to Indigenous groups and the Agency a schedule outlining all activities required to carry out all phases of the Designated Project no later than 60 days prior to the start of construction. The schedule shall indicate the commencement and estimated completion month(s) and year(s) and duration of each of these activities.” The Proponent must co-develop and seek feedback from First Nations on project scheduling in order to avoid key harvesting times.</p>
<p>59</p>	<p>N/A</p>	<p>Federal Lands</p>	<p>The Agency refers to Comprehensive Settlement Agreements which are anticipated to be negotiated between the Province of Manitoba, Indigenous Services Canada and Little Saskatchewan First Nation, Lake St. Martin First Nation, and Dauphin River First Nation. The Agency states that the Comprehensive Settlement Agreements would provide for an easement and a Flood Risk Zone Agreement which identifies the easement level in which the Province may flood reserve lands. The Agency acknowledges “that the Flood Risk Zone Agreements are only for existing water control structures and works and do not include the</p>	<p>IAAC must include a condition whereby the requirements for a taking under section 35 of the <i>Indian Act</i> and the INAC Land Management Manual must be satisfied prior to the commencement of Project construction. Specifically, the requirements of section 35 and the Land Management Manual would be satisfied by way of an easement to permit flooding on reserve lands with a revisionary interest for Little Saskatchewan, Lake St. Martin, and Dauphin River First Nations.</p>



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			<p>Project.”¹ The Comprehensive Settlement Agreements are speculative and have yet to be executed for Little Saskatchewan First Nation, Lake St. Martin First Nation, and Dauphin River First Nation. Further, the Agency’s position is that the Flood Risk Zone Agreements are unrelated to the Project.</p>	
60	N/A	Cumulative Effects	<p>The cumulative effects of the project’s nutrient loading to Lake Winnipeg are not assessed in the EIS or in subsequent IR responses from MTI. Also, because the Portage Diversion was excluded from the Agency, the water quality of the flood waters emanating from the Assiniboine River were not contemplated in the EIS or by the Agency.</p> <p>The assimilative capacity for nutrients, particularly phosphorus, in Lake Winnipeg is exhausted as evidenced by increases in the extent and make-up of algae blooms. There are many sources of nutrients to the Lake and the project is adding to these sources by short-circuiting the route that flood waters would naturally take to Lake Winnipeg. The assimilative capacity of the natural route through the Assiniboine River, Red River, Netley-Libau Marsh and southern basin of Lake Winnipeg will be lost</p>	<p>Prior to the approval of the Project, IAAC must require the Proponent to conduct a complete assessment of the cumulative effects of nutrients entering the watershed as a result of the Project, including the associated impacts on surface water, fish and fish habitat, and the health and socio-economic conditions of Indigenous Peoples.</p>

¹ Draft EA Report, page 188.



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			<p>as flood waters will flow directly from the Portage Diversion into Lake St. Martin and the north basin of Lake Winnipeg.</p> <p>We are of the view that the release of nutrients from the Project, in combination with past, present, and reasonably foreseeable projects and activities, is likely to cause significant adverse cumulative environmental effects to surface water, fish and fish habitat, and the health and socio-economic conditions of Indigenous Peoples.</p>	