



## **Metis Nation - Saskatchewan**

### **Lake Diefenbaker Irrigation Expansion Project Request for Designation**

#### **BACKGROUND:**

On July 7, 2021, Metis Nation – Saskatchewan (MN-S) received correspondence regarding the designation of the Lake Diefenbaker Irrigation Expansion Project from the Impact Assessment Agency of Canada.

In their letter dated June 16, 2021, the Federation of Sovereign Indigenous Nations (FSIN) requested that the project be designated under subsection 9(1) of the Impact Assessment Act (IAA). This correspondence affirms that the MN-S Ministry of Environment supports and affirms the same position regarding the project designation.

#### **PROJECT UNDERSTANDING:**

We have reviewed all publicly available information regarding this project. The work is planned to take place in three phases which we summarize as WESTSIDE IRRIGATION EXPANSION (phase 1), WESTSIDE IRRIGATION EXPANSION (phase 2) and LOWER QU'APPELLE DIVERSION (phase 3).

In the July 7, 2021, letter the **IAA states that phases 1 and 2 do not appear to be described in the Physical Activities Regulations, whereas phase 3 likely meets the requirements for designation.**

MN-S Ministry of Environment has concerns regarding the limited assessment application for phases 1 and 2 of the project.

This correspondence will state reasons to support **the designation of the project in its entirety.**

## **PROPONENT AND CROWN ENGAGEMENT:**

**MN-S is a Section 35 Rights Holding Nation and has a Nation-to-Nation relationship with the Government of Canada.**

MN-S has an excellent working relationship with the Province of Saskatchewan. We work together collaboratively with Canada and Saskatchewan on a range of portfolios.

As early as 2018, MN-S Ministry of Environment has had conversations with Western Economic Development regarding the project. At that time, the project was still in a conceptual form prior to any project work taking place.

During these early conversations we stated that **a priority for MN-S was to have a fulsome understanding of the proposed project prior to any decision on regulatory review.** It should be noted that at that time the conceptual project lead was Western Economic Diversification.

Since 2018, we have availed ourselves of every opportunity to remain current with the status of the project, including attending public forums.

We noted that on July 6, 2020, the Province of Saskatchewan announced the project in a press release. We attempted to communicate directly with the provincial contact Matthew Glover over a period of several months seeking a meeting to better understand the project and any potential impacts or benefits to MN-S without response.

Our understanding at that time was that the project likely changed from a conceptual project to one that had early engineering and field work completed.

Since July 7, we have been in communication with the IAA, and we have confirmed that there is limited publicly available information to review. This position was to be taken based on the information circulated on July 7, 2021, and at <https://diefenbakerirrigation.ca/>.

**We can confirm that we have had no consultation with the proponent or the Province of Saskatchewan in advance of submitting this letter, except for the communication summary listed above.**

Public forums and informal discussion with a non-involved federal department do not meet the criteria for engagement. Without proper assessment review opportunities, we must insist that the **legislated engagement processes in the Impact Assessment Act (2019) are followed for all phases of the project.**

We also note that the project proponent is an agency of the Province of Saskatchewan, regulated under the Ministry of Environment, posing real or perceived conflicts of interest regarding project approval and construction.

## PROJECT IMPACTS:

All phases of this project may have significant impacts to the environment as described below. Without meaningful project specific information, we ask that the Impact Assessment Agency considers the following:

- Water quality and distribution: Creating irrigable lands in Saskatchewan will likely enable farmers to irrigate crops in a manner that is similar to Alberta, which has an established irrigation infrastructure.
- Based on 2019 figures, approximately 15% of the available water diverted for irrigation does not reach the irrigable area due to several factors (<https://open.alberta.ca/dataset/c0ca47b0-231d-4560-a631-fc11a148244e/resource/344da225-9b40-4d85-bf86-23dcb28a8399/download/af-alberta-irrigation-information-2019.pdf>).
- This removal of water from the South Saskatchewan River does not account for losses at the field level due to evapotranspiration. **A conservative estimate would be that 30% of the total water diversion from this sort of project would be lost to the South Saskatchewan River.**

Water quality in southern and central Saskatchewan are heavily impacted by the introduction of pesticides and fertilizers into natural systems. The Qu'Appelle Valley lakes chain has been a recent focus of work conducted by academics and Indigenous Nations. Toxic algal blooms are increasing in length and severity. These impacts have been documented in scholarly articles (<https://aslopubs.onlinelibrary.wiley.com/doi/full/10.1002/lol2.10164>).

We note that WSA is responsible for water quality in Saskatchewan, and these findings have been clearly documented findings on the website (<https://www.wsask.ca/About-WSA/News-Releases/2021/March/Pasqua-Lake-Blue-Water-Formations-Show-Evidence-of-Cyanobacteria-Blooms-Lab-Testing-Finds/>).

Without disclosure of baseline and modeling data, MN-S Ministry of Environment **believes** that the project through all proposed phases **will** have significant impacts on water quality and quantity.

- Impacts to Traditional Lands: The citizens of MN-S have constitutionally enshrined rights to harvest traditional foods and medicine throughout Canada as confirmed by the Powley decision of 2003 and the Daniels decision of 2016. We foresee that there may be significant impacts to MN-S citizen rights as follows:
  - Irrigation may increase land values which potentially hinders the ability of MN-S to acquire lands impacted by the development.
  - Irrigation may create an impetus for private landowners to cultivate native prairie, which may decrease the potential for harvesting activities.

- Irrigation may motivate the sale of Crown lands in the project area. We note that there is no list of Crown lands impacted by this project available for MN-S to review. The sale of Crown lands runs counter to the spirit of reconciliation.
- Linear Disturbance: The current project information states that nearly 400 km of canals plus an unknown number of pipelines and three balancing reservoirs would be constructed. We foresee the following potential issues:
  - All linear disturbances create the potential for habitat fragmentation and loss.
  - Open channel canals are very likely to change local and regional shallow groundwater flow regimes, especially in many areas of the project that have sandy parent materials. These canals would require lining of some sort which may in some cases be below the shallow groundwater table.
  - Pipelines are significant linear disturbances that require soil disturbance, storage and reclamation, other pipeline projects in the area have shown that weed management and soil subsidence is an ongoing issue.
  - The project area has agricultural lands that have clubroot and possibly other soil borne pathogens that could impact MN-S citizen owned agricultural lands if strict biosecurity measures are not implemented.

## SUMMARY OF ISSUES:

Based on the limited information available we assessed the Physical Activities Regulations of the Impact Assessment Act for water projects (58-61). The correspondence from the IAA states that based on the information common to each of the IAA and MN-S Ministry of Environment that **there are no activities that appear to reach the threshold of requiring designation based on the physical activities**. We have reviewed the relevant sections and have the following comments:

- It is not clear whether Lake Diefenbaker would be considered a natural water body. We note that for all Department of Fisheries and Oceans regulated projects there is no differentiation between natural and anthropogenically altered waterways.
- There is no data to estimate the volume of water to be moved and consumed for the project over each year.
- In provincial regulations all wetlands are considered water bodies. We do not have information to assess the number, type, and classification of wetlands across the project area and therefore cannot estimate the potential impacts.

**REGULATOR DEFINED QUESTIONS:**

Correspondence from the IAA has requested that we provide information regarding the following questions:

1. Please describe whether and how the potential adverse effects of the Project could result in changes to your community's:
  - (a) physical and cultural heritage (e.g., ceremonial sites, burial sites, cultural landscapes)
    - Undefined, as the available project description, lack of proponent engagement and hurried regulatory timing precludes this assessment. MN-S Ministry of Environment is willing and able to carry out this work with proponent and/or regulator support.
  - (b) current use of lands and resources for traditional purposes (e.g., hunting, fishing, trapping)
    - Undefined, as the available project description, lack of proponent engagement and hurried regulatory timing precludes this assessment. MN-S Ministry of Environment is willing and able to carry out this work with proponent and/or regulator support.
  - (c) structures, sites or things of historical, archaeological, paleontological or architectural significance (e.g., artifacts, important historic buildings or symbols)
    - Undefined, as the available project description, lack of proponent engagement and hurried regulatory timing precludes this assessment. MN-S Ministry of Environment is willing and capable to carry out this work with proponent and/or regulator support.
2. Please describe whether and how the Project may result in changes to your community's health, social or economic conditions (e.g., employment opportunities, access to goods and services, economic development, access to health-care services).
  - Undefined, as the available project description, lack of proponent engagement and hurried regulatory timing precludes this assessment. MN-S Ministry of Environment is willing and capable to carry out this work with proponent and/or regulator support. **We would note that a preliminary analysis of the project is likely to negatively impact economic development as described previously.**

3. Please describe whether and how the Project may impact your community's rights as protected under section 35 of the *Constitution Act, 1982*.
- This project is very likely to impact MN-S rights. There is likely to be a loss of the ability to participate in traditional harvesting due to reduction of access to; and/or sale of Crown lands.
  - Changes in water quality and quantity are likely to impact traditional activities in the South Saskatchewan River system. Phase 3 will add additional impacts to the Qu'Appelle River system.

## CONCLUSION:

MN-S Ministry of Environment is unable at this time to properly assess the project based on the publicly available data common to the IAA and MN-S. As such we must request that the entirety of the project is designated for impact assessment. To support this position, we ask that you consider:

- Although undefined, MN-S Section 35 rights will very likely be impacts. MN-S Ministry of Environment is willing to assess these impacts with support from the proponent and/or regulator. We have noted that MN-S Ministry of Environment has not been meaningfully engaged by the proponent despite our early multiple attempts to begin a dialogue.
- There is a definite perception of conflict of interest as the proponent is an agent of the Province of Saskatchewan reporting to the provincial Ministry of Environment. This creates a lack of transparency. **The rights of MN-S stem from the federal constitution and cannot be assigned to any other agent.**
- **The scope of the project (202,343 ha; 400 km of canals, pipelines, reservoir construction) is an extremely large footprint and as such warrants IAA assessment and regulation.**
- Based on the limited project information there is likely to be a negative impact to MN-S citizens economic opportunities and traditional activities.
- We are specifically opposed concerned to the IAA planned phased approach. This is a single project. Splitting the assessment is inconsistent with previous large projects and creates uncertainty regarding the ability to assess cumulative effects. It is clear from the project description that the intent of the proponent is to proceed with all phases.

We would like to thank you for your consideration of this data, and we look forward to furthering engagement with the IAA and the proponent.

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Respectfully,

<Original signed by>

Reina Sinclair

Director, MN-S Ministry of Environment

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