



SWAN LAKE FIRST NATION

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CANADA

Attention: Dan Bulloch
Senior Policy Analyst

Please find enclosed a copy of Swan Lake First Nation Report on Findings after our review of the Manitoba Hydro's Bipole III Environment Impact Statement.

Yours truly,

Swan Lake First Nation

A handwritten signature in cursive script, appearing to read 'Dan Bulloch, Councillor', is written over a horizontal line.

Chief and Council

Swan Lake First Nation Review of Manitoba Hydro's Bipole III Environmental Impact Statement

March 16, 2012

Prepared For:

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Disclaimer

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1.0 Introduction

1.1 Background

Manitoba Hydro (MB Hydro) has announced plans to build a third major transmission line from hydro dams in northern Manitoba to southern Manitoba, called the Bipole III Transmission Project. The Project requires two new converter stations with two new related ground electrodes, new 230 kV ac transmission collector lines to connect the new northern converter station to existing converter stations, and a new +/- 500 kV HVdc line to connect the two new converter stations. This proposed +/- 500 kV HVdc line running through southern Manitoba would pass through territory traditionally occupied by Swan Lake First Nation (SLFN) and its community members. **Map 1 Context Map** shows the proposed Bipole III transmission line in relation to Swan Lake First Nation's Reserve Lands south of Portage la Prairie.

MB Hydro's Board approved the Project in September 2007. In December 2009 MB Hydro submitted an Environment Act Proposal Form to Manitoba Conservation and the Scoping Document, intended to guide the preparation of the Project Environmental Impact Statement, was approved in June 2010.

Swan Lake First Nation was first approached by MB Hydro regarding the Bipole III Project in March 2010, at which time SLFN informed MB Hydro of their interests in a segment of the proposed transmission line corridor. In January 2011 SLFN officially presented their concerns to MB Hydro regarding the Assiniboine River crossing area of the proposed transmission line. In recognition of the extent of SLFN's interests, MB Hydro supported immediate study of this area. In February 2011 MB Hydro provided funding to SLFN for investigation into SLFN's traditional knowledge and into botanical and archeological resources near the Assiniboine River crossing area of the proposed transmission line.

SLFN participated with MB Hydro to conduct three studies to be incorporated into the Environmental Impact Statement:

Swan Lake First Nation Traditional Knowledge Project

Conducted by David Scott of the History and Treaty Research Department of SLFN, this is an ongoing project investigating traditional knowledge and land use.

Investigations conducted between January and June 2011 were incorporated into the "Swan Lake First Nation Traditional Knowledge Project Report" (the SLFN TK Report), dated 6/8/2011.

Since the SLFN Traditional Knowledge Project and associated research is ongoing, the SLFN TK Report is considered preliminary.

Assessment of Archaeological Resource Potential

Conducted by Tomasin Playford, the archaeology assessment was conducted in the summer of 2011, resulting in the “Interim Report – Assessment of Archeological Resource Potential in the Indian Garden and Surrounding Locale, South-Central Manitoba” (the SLFN Archeology Report), presented September 6th, 2011.

Due to a short time frame for study completion and flooding of the Assiniboine River valley, it was not possible to complete SLFN’s archeological study. Therefore, the extent of archeological artifacts and the location and/or extent of significant cultural and heritage sites has not been fully identified.

Botanical Survey

Conducted by Laura Reeves, the botanical survey involved field work in June, July and September of 2011. The resulting “Botanical Survey of Swan Lake First Nation Indian Gardens and Lands Surrounding the Proposed Bipole III Assiniboine River Crossing – Final Report” (the SLFN Botanical Report) is dated September 29, 2011.

On December 1, 2011, MB Hydro filed the “Manitoba Hydro - Bipole III Transmission Project : A Major Reliability Initiative” Environmental Impact Statement with Manitoba Conservation.

As a community likely to be affected by the development, and as a First Nation with Aboriginal and Treaty rights, including rights to consultation and accommodation per Section 35 of the Constitution Act 1982, SLFN received funding from Manitoba Conservation to review and provide comment on the Bipole III Environmental Impact Statement.

1.2 Report Content

Swan Lake First Nation has significant concerns regarding the Manitoba Hydro Bipole III Transmission Project, specifically the 500kV HVdc transmission line component of the Project, and the associated Manitoba Hydro Bipole III Transmission Project – Environmental Impact Statement.

This report summarizes comments and concerns identified by the Swan Lake First Nation (SLFN) after conducting a brief review of Manitoba Hydro’s Bipole III Transmission Project – Environmental Impact Statement (herein referred to as the EIS).

It should be emphasized that due to the extensive size of the EIS, the short time line to review it and limited funding provided for this review, the comments outlined in this report should not be construed as the result of a comprehensive, in-depth, review of the EIS.

The comments and concerns presented in this review report are in addition to those comments, concerns and recommendations presented in the preliminary SLFN TK, Botanical and Archeology Reports.

It is apparent from the research conducted and from review of the EIS that there are remaining gaps and uncertainty in the knowledge held by SLFN and the proponent as well as gaps and uncertainty in the EIS that are of concern to SLFN.

2.0 Swan Lake First Nation's Comments and Concerns

The following outlines SLFN's comments and concerns with respect to the Manitoba Hydro Bipole III Environmental Impact Statement (EIS) and the Bipole III Project. Comments and concerns are organized into topic areas including: SLFN's preliminary Traditional Knowledge Project Report, Botanical Report and Archeology Report; Heritage and Cultural Resources; Resource Harvesting; Environment; Land Interests; Socioeconomic Interests; and Environmental Protection Plan and Monitoring Plans.

While reviewing this section, it is important to note, and to understand, that aboriginal cultural practices and heritage are often linked to a relationship with specific locations and the natural environment (land and ecosystems) and that all land and water is considered sacred by SLFN.

SLFN has a long, intensive, and rich history of occupancy, use (resource, ceremonial, historical), and travel in southern Manitoba. There is a significant concentration of SLFN's occupancy, use, and travel in and around present day Indian Gardens Reserve #8 and Long Plain Indian Reserve #6. The Final Preferred Route of the Bipole III Transmission Line, as presented in the EIS, traverses this area (see **Map 2: Local Area Map**).

For the purposes of this review, SLFN's area of interest is considered that area where the Bipole III transmission line crosses through southern Manitoba in the vicinity of Indian Gardens Reserve #8. SLFN has a broader area of interest where the transmission line passes through their traditional territory, but this broader area is not included in the scope of this review.

From SLFN's perspective, the environment/landscape in this area is an interrelated whole that includes environmental, social, and cultural dimensions. This means that the landscape embodies SLFN's history, rights, cultural identity, heritage resources, and domestic resources. Impacts to select components of the environment, such as plants, terrain, soils, water quality, fish and fish habitat, cultural or heritage sites etc. subsequently impact the people and community of SLFN.

SLFN acknowledges that some of their preliminary concerns have been documented in the EIS (vegetation, archeological, important community sites) based on the preliminary SLFN TK Report.

Section 5.4.3.5 of the EIS provides a summary of SLFN's recommendations and outstanding concerns with respect to the Bipole III Project based on preliminary investigations into Traditional Knowledge, botanical resources and archeology targeting the Final Preferred Route within the SLFN area of interest. In addition, Section 6.0 of the Aboriginal Traditional Knowledge Technical Report #2 (prepared for MB Hydro by Northern Lights Heritage Services Inc. and MMM Group Limited, November 2011) describes many of the outstanding concerns of SLFN in relation to the construction, operation and decommissioning of Bipole III in their area of interest. Appendix G of the Aboriginal Traditional Knowledge Technical Report #2 includes SLFN's preliminary TK Report.

Based on the preliminary studies conducted by SLFN and Manitoba Hydro, SLFN concurs that their area of interest and the Assiniboine River Crossing area in particular constitute an “Environmentally Sensitive Site”. This area exhibits characteristics that are concerning in terms of potentially significant impacts to heritage and cultural resources, terrain and soils, vegetation and plant resources, and the aquatic environment.

There remains a need for more detailed studies/surveys of the vegetation, aquatic environment and cultural and heritage resources; there is a lack of information in the EIS regarding the existing environment and potential effects on these resources.

The EIS provides mitigation and protection measures, however they are generally lacking in detail. It is unclear how MB Hydro proposes to address SLFN’s concerns in the context of vague, non-site-specific mitigation measures and the Environmental Protection Program / Plan (EnvPP) as these measures are currently provided in the EIS. SLFN requires more consultation and meaningful dialogue with MB Hydro with regards to the following:

- SLFN needs more specific information about the construction, operation and maintenance, and decommissioning phases for SLFN’s area of interest for all the specific concerns identified in SLFN’s preliminary TK, Botanical and Archeology Reports, and as identified in this review report.
- SLFN needs commitment from MB Hydro regarding how the First Nation’s concerns and knowledge will be incorporated into the final route selection, tower spotting (3.4.5.1), implementation of mitigation measures, monitoring of environmental components, finalization and implementation of the EnvPP and Emergency Response Plan.

Below are specific SLFN comments and concerns related to the Bipole III Transmission Project, the Bipole III Transmission Project EIS, and the Final Preferred Route for the Bipole III 500 HVdc transmission line as it crosses through the SLFN area of interest:

It should be noted that because of SLFN’s interconnected relationship of the land and natural environment (ecosystems) to their culture and heritage, there is necessarily overlap between the topic areas.

2.1 SLFN Preliminary Traditional Knowledge Project Report, Botanical Report and Archeology Report

As discussed above, SLFN acknowledges that a summary of the majority of SLFN’s recommendations and outstanding concerns with respect to the Bipole III Project, as set out in the preliminary SLFN TK, Botanical and Archeology Reports, is provided in Section 5.4.3.5 of the EIS.

SLFN continues to be of the opinion that additional work must be done to address their concerns and emphasizes the importance of continuing their community’s involvement in discussions with the proponent related to the Bipole III Project.

SLFN is concerned by the vague language used in EIS Section 5.4.3.5 to describe the proponent's response to the summary of SLFN comments and concerns:

“Mitigation measures will be considered during the final design process. Discussions will continue with SLFN in an effort to address their concerns and interests and minimize impacts during construction.” (page 5-30)

SLFN acknowledges that mitigation measures will be considered and discussions will continue, but SLFN needs more detailed information and commitment.

SLFN expects specific and detailed requirements of the proponent with regards to how SLFN's comments, concerns and recommendations, as outlined in SLFN's preliminary TK, Botanical and Archeology Reports and presented in this review report, will be addressed.

SLFN expects to be involved in review and approval of mitigation measures within their area of interest.

As noted above, Appendix G of the Aboriginal Traditional Knowledge Technical Report #2 includes SLFN's preliminary Traditional Knowledge Project Report and its appended Botanical Report and Archeology Report. It concerns SLFN that the SLFN Traditional Land Use Map, a component of, and listed in the Table of Contents as an appendix to, the SLFN TK Report, is not appended to the TK report in Appendix G of the Aboriginal Traditional Knowledge Technical Report #2 available for download from MB Hydro's website. Rather, two maps associated with Tataskweyak Cree Nation Traditional Land and Resource Use are appended instead.

2.2 Heritage and Cultural Resources

As discussed above and in SLFN's preliminary TK Report, SLFN has a long, intensive and rich history of occupancy and use in southern Manitoba in general and in the area of interest in particular.

In March 2011, SLFN began an intensive study in an attempt to identify heritage and cultural sites located in the Route's vicinity. SLFN's scope of study, prompted by the Bipole III project, has been necessarily focused on the Final Preferred Route of the Bipole III transmission line Right of Way and surrounding area. It should be noted that SLFN's interests and historical land use extend over a much larger area than the SLFN area of interest for this project.

SLFN's initial efforts to identify heritage and cultural resources in the area of interest resulted in the preliminary SLFN TK Report, which was incorporated, to an extent, into the Bipole III EIS. The SLFN TK Report identified some general and specific locations of heritage and cultural sites within the area of interest, but most significantly these investigations discovered the gaps in current knowledge and the great uncertainty associated with the locations and extents of these important resources.

Subsequent to the completion of the preliminary SLFN TK Report, SLFN has continued to investigate heritage and cultural values in the area of interest. As shown on **Map 3 Heritage and Cultural Site Analysis**, numerous sites of historical occupancy, ceremonial use, burial and other sacred sites have been identified. While the locations of some of these sites have been identified, their extents are not known and some of the sites are potentially much larger than shown on **Map 3**. In addition, due to the concentration of historical land use in the area of interest, there is good reason to assume that other heritage and cultural sites, yet to be identified, are located in this area; this uncertainty is reflected graphically on **Map 3** as the Area with Potential for Additional Heritage Values.

There are sites in the area of interest that are of significant heritage value to SLFN. SLFN is of the opinion that these sites should also be recognized by Historic Resources Branch as "Sites of heritage significance".

MB Hydro states in Section 8.3.6.3 (page 8-352) of the EIS that they will develop heritage protection measures in collaboration with First Nations (and other groups) and will include these measures in the Environmental Protection Plans. The EIS further states, "The EnvPPs will contain heritage protection measures which will be developed in collaboration with First Nations, Metis and local interested parties for Project components that will ensure protection of Aboriginal and non-Aboriginal cultural interests."

SLFN has serious concerns about the general and un-specific nature of statements and commitments in the EIS to protect heritage and cultural resources. These statements do not provide certainty and do not give SLFN confidence.

SLFN is further concerned that specific details about the proposed nature of "collaboration" with SLFN in developing protection measures are not provided in the EIS.

2.2.1 Known Heritage and Cultural Sites

Investigations to date have identified the following heritage and cultural sites important to Swan Lake First Nation that are located in the vicinity of the Bipole III project; these sites are shown on **Map 3**:

- Round Plain
- Halfway Bank
- Indian Gardens
- Lunch Creek Ford
- Hamilton Crossing
- Indian Ford
- Un-named Ceremonial Grounds
- Un-named Settlement / Occupancy Sites
- Burial Grounds
- Travel Routes
- Other Heritage & Cultural Sites

2.2.2 Heritage and Cultural Sites of Particular Significance

A brief discussion regarding heritage and cultural sites located in the area of interest and of particular significance to SLFN is provided below.

Note that some of these sites are discussed, and concerns and recommendations provided, in the preliminary SLFN TK Report. The following comments and concerns are in addition to those comments, concerns and recommendations expressed in the preliminary TK Report.

Ceremonial / Sacred Grounds

A number of ceremonial grounds have been identified in the SLFN area of interest and are shown on **Map 3**. Some of SLFN's ceremonial grounds are very sacred and can be very large. The exact locations and extent of these ceremonial grounds are uncertain. Additional research and archeological study need to be completed to confirm the extent of the sites.

Ceremonies conducted on these grounds sustain the SLFN people beyond the specific temporal boundaries of the event; the benefits from spiritual ceremonies are often timeless and are connected to the lands on which they are performed.

Ceremonies continue to be conducted on sacred sites within SLFN's area of interest.

It should also be noted that non-use of ceremonial or sacred grounds can indicate a greater spiritual importance than regular use; some sacred grounds are respected by not entering and disturbing them.

SLFN has a serious concern that their sacred and ceremonial sites should remain undisturbed. This was included in SLFN's preliminary TK Report but not included in the summary of SLFN concerns and recommendations in EIS Section 5.4.3.5.

Burial Sites

Due to the extensive historical activity in the area of interest, burial sites can be expected to be located throughout the area, close to water and land travel routes and sites of occupation and ceremony. The loss over time of burial site markers makes identification of burial sites difficult, however oral history and the location of a number of found markers has made possible the identification of one large cluster of burial sites on the floodplain of the Assiniboine River and is shown on **Map 3**. A smaller burial site at this location was identified in SLFN's preliminary TK Report, but additional research by SLFN's History and Treaty Research Department has uncovered evidence of a larger site both in number of graves and in spatial extent. As a result of the intense cultural and spiritual activity in this area, graves of individuals from many communities throughout southern Manitoba and northern United States are located at this site.

As outlined in SLFN's preliminary TK Report the SLFN people have strong feelings about disturbing burial grounds, and that any mitigation measures related to burial sites reflect traditional practices of SLFN. MB Hydro has acknowledged SLFN's position on this issue in Section 5.4.3.5 (page 5-28) of the EIS.

SLFN remains concerned that the EIS remains vague regarding accommodation of SLFN's concerns on this matter.

MB Hydro states in Section 8.3.6.3 (page 8-353) of the EIS that during construction the Project Archaeologist will work with the Construction Supervisor and Site Manager to ensure that in-field staff and workers are informed and understand the process of implementing heritage protection measures and the *Heritage Resources Act*.

SLFN noted in their preliminary TK Report that Manitoba Historic Resources Branch has adequate regulations to deal with potential disturbances of burial sites during the construction phase of the Bipole III transmission line. However, the regulations do not account for SLFN traditional practices and SLFN is therefore concerned whether the existing regulations are indeed sufficient to appropriately protect these sites.

SLFN is also concerned that the regulations will be appropriately adhered to by the proponent.

SLFN remains concerned, as noted in the preliminary TK Report, that they would like to have an on-site observer during construction, and a formal protocol considered and agreed to prior to pre-construction and construction activities so that SLFN is involved and mitigation measures are in place should burial sites be identified or disturbed. Any mitigation measures must consider the traditional practices of the SLFN people.

Round Plain (Wawaywashkoodeaung)

Round Plain is an historic site where the Portage Band separated into three bands (Sandy Bay, Long Plain and Swan Lake) during the 1876 revision of Treaty One. This site is also an historic and contemporary location for traditional ceremonies for many peoples, including SLFN.

Investigations by SLFN's History and Treaty Research Department, conducted subsequent to the SLFN preliminary TK Report, have suggested that the site is larger than believed at that time, likely extending to include land south of the Assiniboine River. The exact extent of the Round Plain site is not known and additional research and archeological analysis need to be completed to confirm the site's boundaries.

As outlined in the preliminary SLFN TK Report to MB Hydro, the Round Plain site has historical value to SLFN and is considered sacred ceremonial ground. As such, additional disturbance of the Round Plain site in any way would not be supported by SLFN.

Indian Gardens (Gitiganishing)

Indian Gardens is an historic site of occupancy and ceremony, the significance of which is discussed in detail in SLFN's preliminary TK Report.

Investigations by SLFN's History and Treaty Research Department, conducted subsequent to the SLFN preliminary TK Report, have further confirmed the sacred importance of Indian Gardens to SLFN's people and culture. Land in and around Indian Gardens has become a sacred place of primary importance, through ceremonial history and the placing of sacred objects.

Additional research has confirmed that the location and extent of Indian Gardens remains uncertain. Research has uncovered conflicting evidence of Indian Garden's boundaries, in some instances suggesting that the site was many times larger than the current Reserve parcel. It is clear, however, that the Indian Gardens site extended northwards at least to the banks of the Assiniboine River.

Additional research and archeological study needs to be completed to confirm the extent of this site.

Due to the ceremonial / sacred nature of the Indian Gardens site, additional disturbance of the Indian Gardens site (not merely the Indian Gardens Reserve parcel) in any way would not be supported by SLFN.

Travel Routes

SLFN's area of interest was an important hub for travel, both by water and by land. The Assiniboine River was a major travel route in summer and winter and at least one portion of the Yellow Quill Trail, a primary travel route for this part of the country, passed through this area, crossing the Assiniboine River at Hamilton Crossing. While the exact overland route of the Yellow Quill Trail in this area is difficult to determine, that portion of the trail where it crosses the Assiniboine River at Hamilton Crossing is shown on **Map 3**.

The EIS acknowledges in Section 8.3.6.3 that the Final Preferred Route of the Bipole III Transmission Line crosses the Yellow Quill Trail in this area.

Assiniboine River Crossing

The "Assiniboine River Crossing" area of the proposed transmission line is discussed here as it is identified in the EIS as a heritage "area of concern". It is apparent that the "Assiniboine River Crossing" area falls within SLFN's area of interest; therefore all of SLFN's concerns related to heritage and cultural sites and resources applies to the "Assiniboine River Crossing" area.

The EIS identifies the Assiniboine River Crossing area of the proposed transmission line in Section 8.3.6.3 as one of five "areas of concern" related to heritage resources along the Final Preferred Route due to the Yellow Quill Trail, burial sites, and archeological sites.

The Aboriginal Traditional Knowledge Technical Report #1 also discusses the importance of the Assiniboine River Crossing in Section 4.1.2, identifying the area's high cultural and spiritual value and the potential damage to these values resulting from fragmentation of customary lands, travel routes and habitat.

2.2.3 Archeological Resources

As discussed above, in SLFN's interim Archeology Report and in EIS Section 5.4.3.5, the study of archeological resources in SLFN's area of interest could not be completed due to extensive flooding and ongoing wet conditions. Additional study is required at a time when the flooded areas are accessible. It is apparent from the interim Archeology Report that additional finds can be expected in the area of interest and along the Final Preferred Route.

SLFN acknowledges that the recommendations made in the preliminary SLFN Archeology Report are included in EIS Section 5.4.3.5, but SLFN needs more detailed information and commitment with regards to how their concerns and recommendations will be addressed.

The EIS states, in Section 8.3.6.3, that "...the area will require detailed survey by the Project Archaeologist working with the Swan Lake First Nation archaeologist prior to construction" (Page 8-352). SLFN wants more detail and confirmation that this will occur. This must be a requirement of the regulatory approval.

SLFN expects Historic Resources Branch to play an active role in:

- review of heritage plan
- monitoring activities during construction, and
- compliance monitoring

SLFN requires that it be consulted and involved in development of the protocol and next steps if artifacts or significant sites are found.

SLFN expects their archeologist present at the time of tower spotting.

2.3 Resource Harvesting and Cultural Activities

SLFN has serious concerns regarding potential impacts on the resources and the First Nation's corresponding aboriginal and Treaty rights to those resources as a result of the Bipole III Transmission Project. The resources of concern include, but are not limited to, those related to: hunting; fishing; plant and medicine gathering.

The botanical study prepared for SLFN, and provided to MB Hydro as part of the EIS preparation, identifies over 200 plant species within the Final Preferred Route of the Bipole III HVdc Transmission Line. Of these identified plant species, 95% are known as medicinal plants to members of SLFN, and nine of these medicinal plants are considered rare in Manitoba, with two plant communities determined to be highly vulnerable to potential

disturbance from the Bipole III Transmission Project. The botanical study and the affected plant species are discussed in more detail in Section 2.4.1 of this review report.

SLFN acknowledges the following statement in Section 8.3.6.4 of the EIS, “The on-going liaison and communications Manitoba Hydro intends to maintain with First Nations, the MMF and Aboriginal communities with respect to the Project will facilitate the identification of potential lost opportunities and mutually agreeable ways to avoid such loss and to maintain important cultural activities” (page 8-357).

SLFN is concerned no details are provided in the EIS regarding ongoing liaison with First Nations, specifically with SLFN, and that the language used, “... Manitoba Hydro intends ...” is vague and non-committal. SLFN expects these details to be outlined and required.

SLFN notes that, as a First Nation under Treaty, SLFN has different rights from either the MMF or non-Treaty Aboriginal communities.

SLFN is concerned that there is no stated process to address a potential lack of consensus on, and approach to, developing “mutually agreeable ways” to avoid loss and maintain important cultural activities between SLFN and MB Hydro. SLFN requires a process be identified and required of the proponent, identifying a mediator and final decision-maker.

If “mutually agreeable ways” can be determined, how will MB Hydro / MB Conservation ensure that they are adhered to?

2.4 Environmental

The following presents SLFN’s comments and concerns related to environmental considerations in reviewing the EIS and in relation to the Bipole III Transmission Project.

2.4.1 Vegetation

SLFN has documented the species and plant communities in several key locations along and immediately adjacent to the proposed Final Preferred Route in their area of interest in their Botanical Report (Reeves, 2011). This information has been summarized in the Bipole EIS in relation to Aboriginal engagement (5.4.3.5), existing environment of vegetation (6.2.5.8) and resource use (6.3.2.9), effects assessment and mitigation (8.2.5.2), and ATK Technical Report #2 (Section 6.0).

The spatial scope of SLFN’s botanical survey was restricted to the proposed Final Preferred Route and small portions of the Indian Gardens and Round Plain sites; it did not involve SLFN’s entire area of interest.

SLFN remains concerned about potential construction-related effects to plants and plant communities:

- Clearing, crushing, and grubbing will result in the loss of habitat integrity (i.e. fragmentation) and potential loss of specific species of importance for medicinal and food purposes despite proposed mitigation measures (Page 8-73).
- Clearing will significantly change the plant communities in and along the ROW due to changes in sunlight penetration since many of the specific plants of conservation concern and traditional use are understory species requiring specific microclimatic conditions. SLFN does not believe that this type of effect will be mitigated by the mitigation measures proposed in Section 8.2.5.4 of the EIS (Page 8-73).

SLFN is concerned about operation and maintenance related effects on vegetation:

- Herbicide use to control invasive and broadleaf species. Section 8.2.5.4 proposes the following mitigation measure, “In areas where species of conservation concern have been identified, a non-herbicide method will be used, such as hand cutting, mechanical cutting or winter shearing (page 8-74).” SLFN requires details and confirmation of the methods to be used in their area of interest.
- Clearing or crushing related to ground maintenance or emergency responses (page 8-73). SLFN requires details and confirmation of the methods to be used in their area of interest.
- SLFN strongly supports non-herbicide methods of vegetation management (Section 8.2.5.2, pages 8-68 and 8-69), not only where species of concern occur (see page 8-74), but over the entire several kilometre section of the Bipole III HVdc line in SLFN’s area of interest. This mitigation measure is very important, requiring confirmation in the Bipole III license and appropriate documents to mitigate potential stress, mortality or contamination of the various plants of value for medicinal and food purposes (as stated in SLFN’s preliminary TK Report).

If the Final Preferred Route, as presented in the EIS, is authorized, SLFN and SLFN’s botanist must be involved in the final planning stage (tower spotting) and implementation of the Environmental Protection Program / Plan (EnvPP) to ensure minimal effects to specific plants and plant communities of importance.

Manitoba Hydro has proposed mitigation measures to minimize potential effects to plants and plant communities in Section 8.2.5.4 of the EIS (pages 8-73, 8-74), however, SLFN is concerned that the mitigation measures do not acknowledge SLFN’s Botanical Report regarding species of conservation concern and traditional use.

2.4.2 Terrain and Soils

There are various potential impacts on soil and terrain in the SLFN’s area of interest, including: compaction, water and wind erosion, mass wasting, soil mixing, and herbicide residues.

The Technical Report on Terrain and Soils (prepared for MB Hydro by Stantec, November 2011) states that “there is a severe risk of soil loss due to water erosion where the 500 kv

HVdc transmission line right-of-way crosses the Assiniboine River southwest of Portage la Prairie (Map 800 – 15 – Water Erosion Prone Soils) due to sloped terrain.” (pg. 6.12).

This area also shows a potential wind erosion risk due to “highly erodible soils” (see Map 700 – 16).

MB Hydro is proposing site-specific environmental protection measures to reduce the effect of water erosion in this area (Technical Report on Terrain and Soils, pg. 6.12). These include scheduling construction, monitoring/inspection, and decommissioning activities in the winter (where possible), minimizing clearing to protect the existing ground cover and reduce exposure of bare ground, direct run-off away from disturbed areas, develop site-specific sediment control plans to manage water erosion risk, and restore banks to their original condition, if disturbed.

SLFN remains concerned with respect to several issues:

- SLFN is concerned that the EIS understates the potential effects on terrain stability and soil productivity (i.e. water erosion and mass wasting) in the erosion-prone soils adjacent to the creek and the Assiniboine River in SLFN’s area of interest.
- The Final Proposed Route right-of-way traverses an area of highly erodible soils and a steep slope leading down to a creek, which feeds into the Assiniboine River. SLFN remains concerned about the specific location of the ROW and how that might result in de-vegetation and potential mechanical and/or water erosion into the creek and subsequently into the Assiniboine River.
- The Final Proposed Route right-of-way also ascends a steep, erodible slope on the east side of the Assiniboine River.
- SLFN remains concerned about the specific locations of transmission towers in relation to the terrain and soils in the SLFN’s area of interest.
- While some of the listed mitigation measures are necessary from SLFN’s perspective, they are described in the EIS in a vague and non-committal manner (e.g. scheduling construction in the winter, where possible, and selective and hand clearing). It is unclear if certain mitigation measures and clearing methods will be used.
- It is unclear how Manitoba Hydro will implement and manage erosion and possible sedimentation despite site-specific sediment control plan (Technical Report on Terrain and Soils, page 6.12) and Erosion Protection and Sediment Control Environmental Protection Measures (Table 33, page 57, Draft EnvPP). SLFN requires that it be involved in the development and review of the site-specific sediment control plan.

2.4.3 Water Resources

Water is an extremely important and sacred resource to the people and culture of SLFN. The water resource itself, not merely access to it, is considered by SLFN as a Treaty and Aboriginal right.

Groundwater

The Assiniboine River Crossing area of the Bipole III right-of-way is described in the Technical Report on Ground Water (prepared for MB Hydro by Stantec, November 2011) as having “moderate sensitivity to aquifer contamination” (Pg. 4.6) and “vulnerable to contamination” from geotechnical drilling (preconstruction); refueling equipment, installing foundations, and obtaining fill materials (borrow sources) (construction); and applying herbicides for vegetation management (operations and maintenance) (see Table 3 Technical Report on Groundwater).

Table 5 of the Technical Report on Ground Water describes the proposed mitigation measures regarding the management and use of pesticides and hydrocarbons and the management of geotechnical drilling to address the potential impacts mentioned above. The Technical Report notes that the assessment of groundwater vulnerability “should be considered with caution, because it is biased by parameter weighting and limited to a regional scale and therefore may not resolve local sand and gravel aquifers up to 5 km long or wide” (pg. 4.6 Technical Report on Groundwater).

SLFN is concerned about potential impacts to ground water and aquifers through construction (tower foundation drilling or accidental fuel spills) and operation/maintenance activities (herbicide use).

Because of the regional scale of assessment, SLFN requires smaller scale analysis of the potential risks of groundwater contamination in SLFN’s area of interest.

Aquatic Environment

The Assiniboine River crossing has been classified in the Aquatic Environment Technical Report (prepared for MB Hydro by North/South Consultants Inc., November 2011) as an “Environmentally Sensitive Site” because it is one of eight sites with High habitat sensitivity and Important fish habitat (Section 5.2.3). The Assiniboine River’s west bank is unstable and actively eroding making it susceptible to further mass wasting, water erosion, and/or mechanically induced erosion. These potential environmental effects would increase sediment loads in the Assiniboine River and potentially impact water quality, fish and fish habitat.

As stated above, SLFN remains concerned with the need for the development and implementation of a site-specific sediment control plan for the Assiniboine River Crossing because it is identified as a “Water Erosion Risk Area” due to severe water erosion risk class soils (see Map 800 – 15 – Water Erosion Prone Soils; page 39 Technical Report on Terrain and Soils).

In spite of mitigation measures, SLFN is concerned that the EIS understates the potential effects on water quality (i.e. increases in total suspended solids), fish (i.e. reduced visibility and feeding success) and fish habitat (i.e. sediment deposition).

The EIS does not identify a potential risk of sediment loads entering the Assiniboine River via the creek feeding into the River and running along the proposed transmission line route

within SLFN's area of interest. The Final Proposed Route right-of-way traverses this sloped terrain on the north side of the ravine that has the severe water erosion risk soil class; potential water erosion and/or mass wasting due to clearing, construction or operation and maintenance activities could increase sediment loads in this creek and flow into the Assiniboine River.

SLFN is concerned that Manitoba Hydro does not plan to monitor water quality parameters and sediment loads in and around the Assiniboine River Crossing. Fish presence and abundance as well as fish habitat in this section of the Assiniboine River have been insufficiently researched and documented in the EIS (see Aquatics Technical Report Appendix 6e, Site 281). There are potential impacts on water quality, fish and fish habitat in relation to construction activities and Manitoba Hydro will not be able to verify predictions described in the EIS without more baseline information and monitoring of these environmental components.

The EIS states in Section 8.2.4.4,

“As the nature of stream crossing work for overhead transmission lines can be accomplished with a low risk to fish habitat and minimal effect on the aquatic environment DFO has specified operational statements that if applicable and adhered to, do not require further assessment or authorization under *The Federal Fisheries Act*. Manitoba Hydro intends to use the Operation Statements for all aspects of potential effects on stream and riparian areas from the construction and maintenance of overhead lines for the project “

SLFN is concerned that the Department of Fisheries and Oceans (DFO) is not involved in the Bipole III Project and that the proponent will satisfy fisheries-related concerns merely by adhering to the Operation Statements. SLFN recommends that DFO play an active role in this process.

2.5 Land Interests

As shown on **Map 1**, SLFN's Reserve lands do not fall within the 3-mile Local Study Area identified in the EIS, however, their Indian Gardens Reserve 8 and Swan Lake Reserve 8a are located within the Project Study Area. SLFN's Indian Gardens Reserve #8 lies only 1.8 miles from the Final Preferred Route for Bipole III Transmission Line and the SLFN's home Reserve (IR 7) and community is located only 23 miles from the Final Preferred Route.

The EIS does include SLFN in the list of *First Nations with Reserve Lands in or Undertake Traditional Use in the Bipole III Project Study Area* (Table 6.3 -2 in EIS Section 6.3.1.4). However, as explained below in this section of this report, SLFN is concerned that some of their specific land interests and their outstanding Treaty Land Entitlement have not been adequately considered.

2.5.1 Specific Land Interests

Included in the heritage and cultural sites discussed above in Section 2.1 and in SLFN's preliminary TK Report, two specific sites require discussion and consideration; the Indian Gardens site and the Round Plain site have particular histories and importance to the culture and people of SLFN and have potential outstanding land interests associated with them.

Indian Gardens

As discussed above in Section 2.1 and as described in more detail in SLFN's preliminary TK Report, the Indian Gardens site is of significant historical, cultural and spiritual importance to SLFN. Also as discussed above, the exact location and extent of Indian Gardens is currently unknown, although it is apparent that the site extends well beyond the boundaries of the Indian Gardens Reserve 8. Research being undertaken by SLFN's History and Treaty Research Department into the true extent of the Indian Gardens site is ongoing at the time of this report.

The status of the Indian Gardens site is also uncertain at this time as the site is considered land occupied prior to treaty per Section 10 of the Indian Act 1876. SLFN will be pursuing discussions with the Federal Government regarding this outstanding issue.

SLFN's recommendations made in the preliminary TK Report in relation to Indian Gardens site are summarized in Section 5.4.3.5 of the EIS.

Until the activities associated with the Indian Gardens site that are identified in SLFN's preliminary TK Report take place, any determination of the impact of Bipole III cannot be completed.

Round Plain

As discussed above in Section 2.1 and as described in more detail in SLFN's preliminary TK Report, the Round Plain site is of significant historical, cultural and spiritual importance to SLFN. Also as discussed above, the extent of the Round Plain site is not known.

SLFN has an interest in protecting this significant site.

2.5.2 Treaty Land Entitlement

Under a March 1995 Settlement Agreement, SLFN is entitled to the purchase of up to 13,035 acres of additional Reserve land to satisfy outstanding Treaty Land Entitlement (TLE). To date, SLFN has purchased a total of 8,773.35 acres, leaving 4,261.65 acres remaining for purchase and conversion to reserve. SLFN is entitled to purchase for Reserve anywhere in the Treaty 1 area, including within their area of interest associated with this review.

However, SLFN is not identified in the EIS as a First Nation having “*Outstanding Treaty Land Entitlements (TLEs) In the Bipole III Project Study Area*” (Table 6.3-3 in EIS Section 6.3.1.4).

SLFN is concerned that their land interests associated with outstanding Treaty Land Entitlement are not identified in the EIS. SLFN has an outstanding entitlement to over 4,261 acres and considerable heritage and cultural resources in the immediate vicinity of the Final Preferred Route. It is possible, if not likely, that SLFN would choose to purchase additional land within the area of interest for their outstanding TLE.

2.6 Socio-economic Interests

The following section provides comments associated with employment opportunities and with the Community Development Initiative described in the EIS.

2.6.1 Employment Opportunities

MB Hydro outlines in Section 3.4.8 of the EIS (page 3-42) information related to right-of-way (ROW) clearing and transmission line construction. Within this section the EIS notes that while clearing will generally be completed with heavy machinery (e.g. blades on a tracked bulldozer), in some environmentally sensitive sites the clearing will be done by hand (with chainsaws).

Section 3.4.8.2 of the EIS notes that contractors will complete construction of the tower structures, Section 3.4.8.4 identifies the approximate crew numbers for construction of the southern portion and for operations and maintenance and Section 3.4.9.3 outlines workforce requirements for transmission line operations and maintenance.

SLFN is concerned by the non-committal nature of the language used in the EIS as it relates to aboriginal involvement and potential employment. For example, Section 8.3.6.3 states, “Manitoba Hydro anticipates employing local Aboriginal people to assist in monitoring Project construction.”, and in Section 8.3.6.5, “Manitoba Hydro anticipates employing local Aboriginal people to assist in Project monitoring.”

SLFN expects MB Hydro to provide commitments related to employment opportunities for members of SLFN during the construction, operation and maintenance stages of the project.

SLFN is particularly concerned with employment opportunities for SLFN related to vegetation clearing for the transmission ROW within their area of interest near SLFN sacred, cultural and heritage sites.

2.6.2 Community Development Initiative

Section 3.4.7 (page 3-39) of the EIS states that, in association with the Bipole III project, MB Hydro has developed a Community Development Initiative (CDI) to help provide direct benefits to communities in the vicinity of the Bipole III project.

MB Hydro outlines in the EIS that the CDI funds are "...to be used to support community development projects that benefit a broad segment of the community" (EIS Section 3.4.7, page 3-39), which could include projects in the areas of:

- Environmental sustainability;
- Resource rehabilitation and development;
- Cultural and social support and development;
- Training, employment and economic development; and
- Community infrastructure development.

The criteria for the CDI funding is outlined in Section 3.4.7.1 (pages 3-39 & 40) of the EIS: "First Nations, incorporated northern towns, and communities recognized under the Northern Affairs Act ... will be eligible for CDI payments when: the Resource Management Area (RMA) or Registered Trapline Area (RTL) associated with the community is traversed by the Bipole III facilities; or The community is located within 25 km of the Bipole III facilities, for communities without a specifically associated RMA or RTL." The Bipole III – EA Consultation Report refers specifically to the "home" community being located within 25 kilometers (page 53).

No RMA or RTL is specifically associated with SLFN. As discussed above in Section 2.5 of this report, SLFN's Indian Gardens Reserve #8 lies approximately 1.8 miles, or 2.9 kilometers, from the Final Preferred Route for Bipole III Transmission Line and the SLFN's home Reserve (IR 7) and community is located approximately 23 miles, or 37 kilometers, from the Final Preferred Route.

Given SLFN's historical occupation and use and their land interests in the SLFN's area of interest, SLFN believes it should be considered for inclusion in CDI funding. Funding could be directed towards community efforts in and around this area.

2.7 Environmental Protection Plan and Monitoring Plans

Chapter 11 of the EIS discusses environmental protection, follow-up and monitoring and a Draft Environmental Protection Plan (EnvPP) is attached to the EIS as Attachment 11-1.

The Environmental Protection Plan and Monitoring plans are "intended to provide assurance to regulatory reviewers, environmental organizations, Aboriginal communities and the general public that commitments made in the EIS will be implemented, monitored, evaluated and reported on in a responsible and accountable manner." (EnvPP page 7). The draft provides some preliminary information regarding the what, who, and how of mitigation and monitoring plans.

SLFN views the EnvPP, Monitoring plans and Emergency Response Plans as key to addressing their concerns. SLFN expects to be consulted and have the opportunity to review and comment on the plans and participate actively in monitoring, protection and follow-up.

SLFN acknowledges that they support many of the ideas/protocols identified in the Draft EnvPP.

SLFN remains concerned since this is only a "Draft" EnvPP. More specifically, SLFN is concerned that protocols supported by SLFN will not remain in the final EnvPP.

SLFN is very concerned that the Draft EnvPP does not address comments and concerns associated with specific mitigation measures for heritage resources, vegetation, terrain and soils etc. identified in the SLFN preliminary TK Report, Botanical Report and Archeology Report and necessarily does not address additional concerns identified in this EIS review report.

SLFN requires specific communication regarding the EnvPP for their area of interest that includes the "Assiniboine River Water Erosion Risk Area" (page 6.12 Technical Report on Terrain and Soils), the "Environmentally Sensitive Site" in the aquatic environment (see 8.2.4.4 and 5.2.3), and "Area of Concern" for heritage and cultural resources (8.3.6.3) and botanical resources/vegetation management.

3.0 Concluding Comments and Expectations

In addition to the comments and concerns identified above and in SLFN's preliminary Traditional Knowledge Project Report, Botanical Report and Archeology Report, SLFN has the following concluding comments and expectations related to the Bipole III Project and EIS, if the Project was to proceed:

SLFN expects more and better communication with their community members with regards to exactly how the Bipole III Transmission Line would be constructed in their area of interest (including method of stringing conductors), the Transmission Line's physical form, mitigation specifics, emergency response situations etc.

SLFN expects meaningful consultation with regards to their concerns and mitigation measures to address those concerns.

SLFN expects to be consulted and involved in the drafting and review of mitigation measures for their area of interest, providing us the opportunity to review and provide feedback on the appropriate documents and measures.

SLFN expects confirmation that mitigation and protection measures will be put in place to protect their resources during construction, maintenance, and in the case of repair or emergency.

SLFN needs to know the specific and detailed environmental protection measures for their area of interest and needs these measures in writing to ensure that they are followed long into the future.

SLFN expects their Archeologist, their Botanist and SLFN representative(s) to be present and involved in the process of tower spotting within their area of interest.

SLFN expects specific and detailed protection and mitigation measures to be set out within the appropriate documents (license, EnvPP, Emergency Plan etc.)

SLFN expects that the mitigation and protection measures are required, in order to protect the values identified and to ensure that their interests are protected.

SLFN expects to be involved in monitoring the Bipole III Project in their area of interest at every / any stage, including construction, maintenance, emergency situations etc. to ensure that their values and interests are protected and mitigation measures are indeed taken.

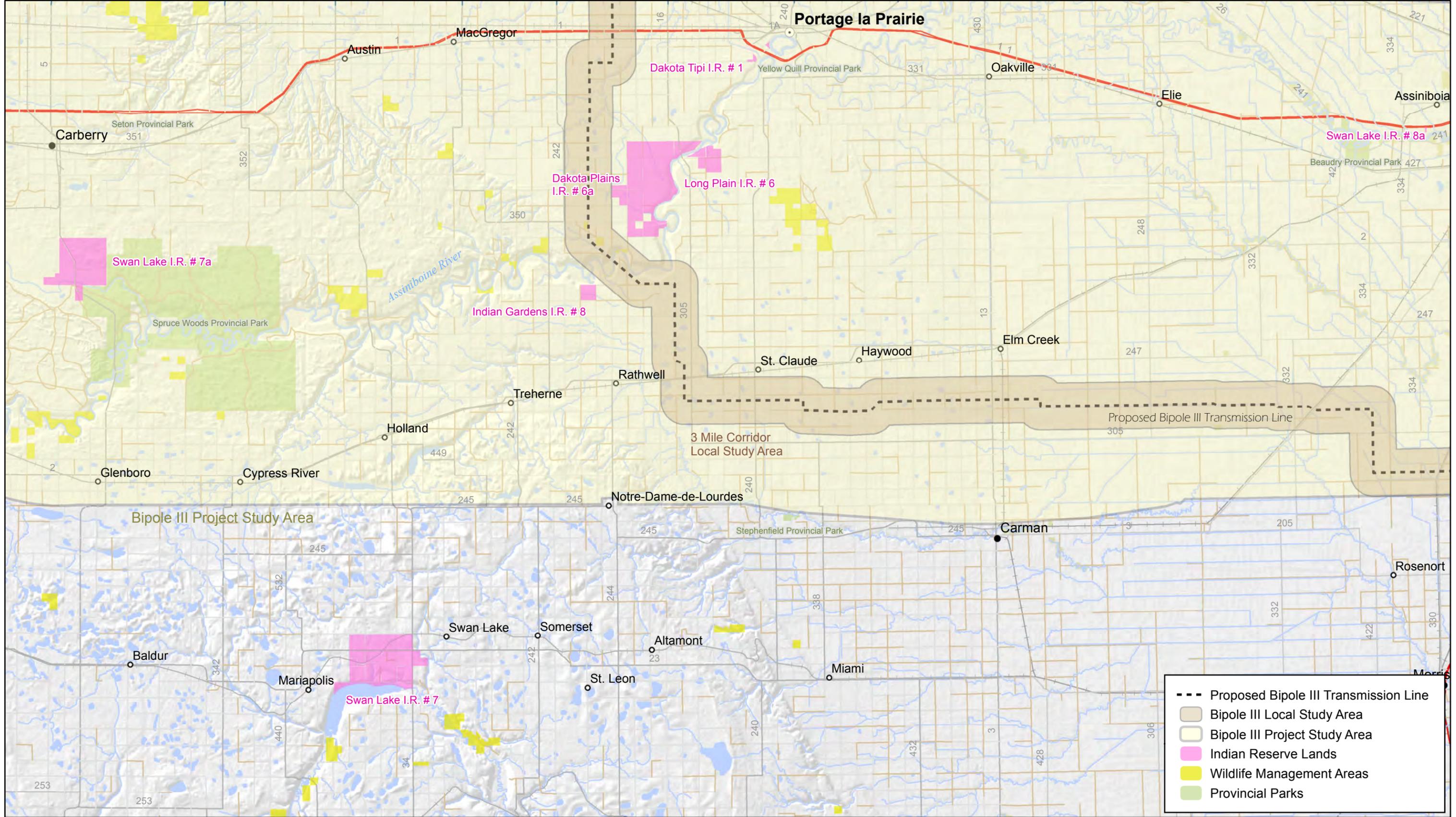
SLFN wants a specific Environmental Protection Plan / Program set out in detail for their area of interest. This may take the form of a separate report or section that considers their concerns for the resources of this area and provides for their involvement and review.

Appendix

Swan Lake First Nation Bipole III EIS Review – Map 1 Context Map

Swan Lake First Nation Bipole III EIS Review – Map 2 Local Area Map

Swan Lake First Nation Bipole III EIS Review – Map 3 Heritage and Cultural Site Analysis



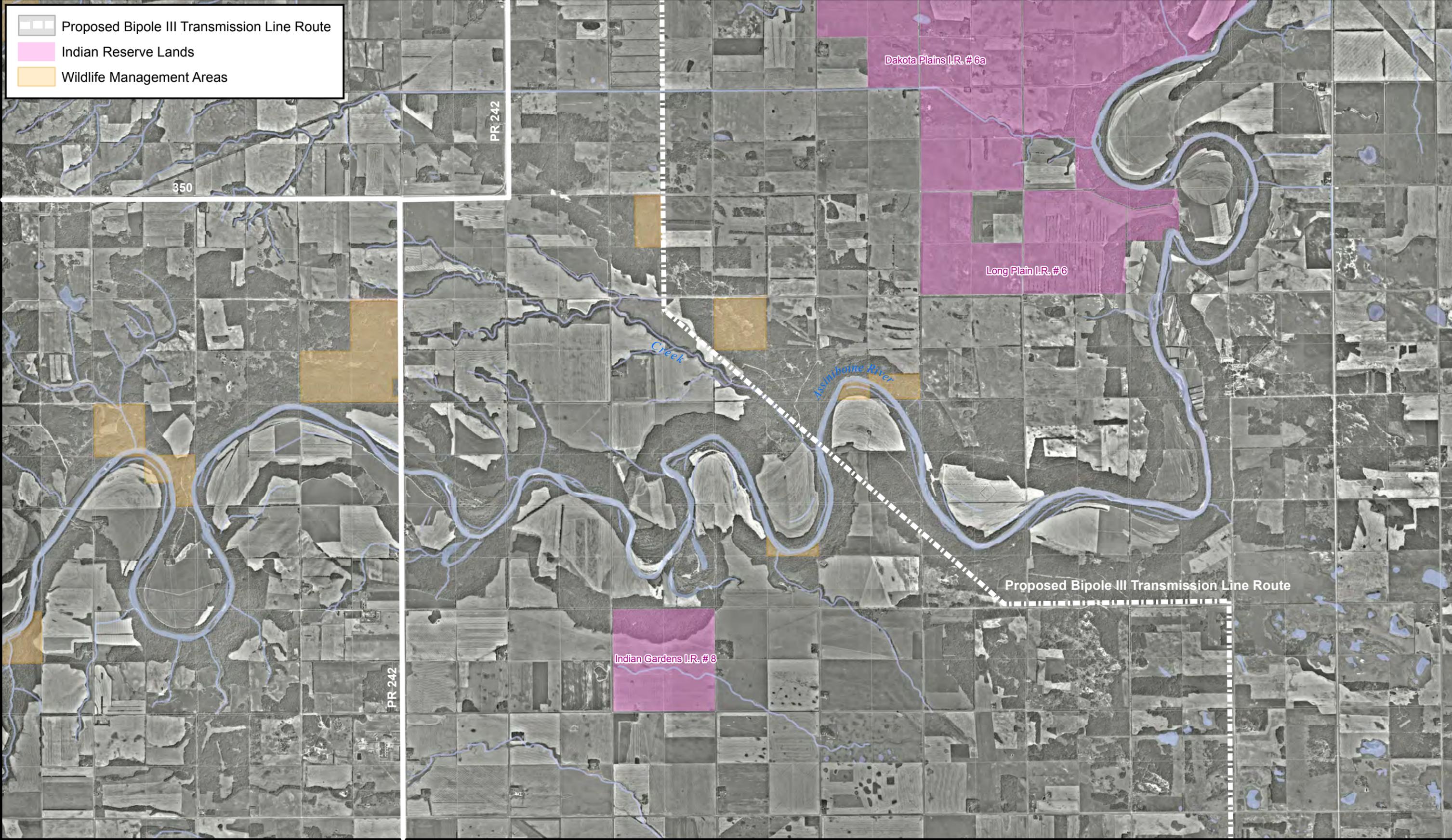
Swan Lake First Nation Bipole III Map 1 Context Map

Prepared by: Hilderman Thomas Frank Cram
Date: February 17, 2012



Map Projection: NAD 1983 UTM Zone 14N
Transverse Mercator

Data Sources:
 Bipole III Proposed Transmission Line Route - Manitoba Hydro
 Bipole III Local Study Area - Manitoba Hydro
 Bipole III Project Study Area - Manitoba Hydro
 Manitoba Indian Reserve Lands - MLI
 Provincial Protected Areas - MLI
 Topographic Information - CanVec



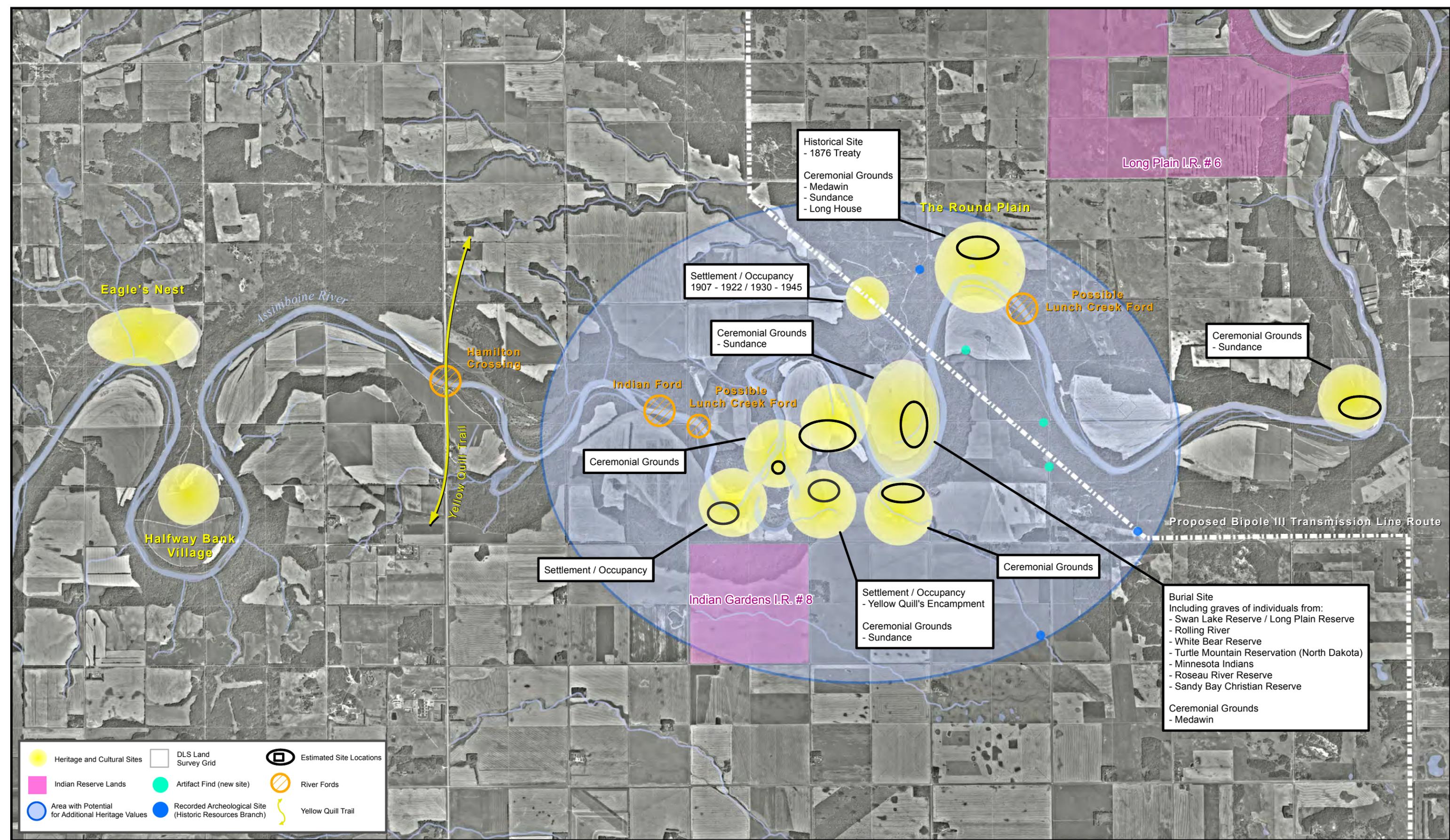
Swan Lake First Nation Bipole III EIS Review
 Map 2 Local Area Map

Prepared by: Hilderman Thomas Frank Cram
 Date: March 13, 2012



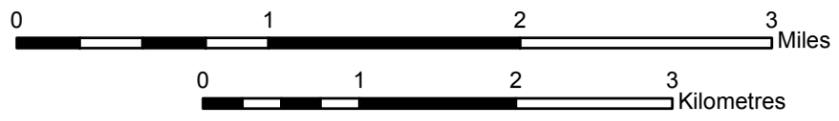
Map Projection: NAD 1983 UTM Zone 14N
 Transverse Mercator

Data Sources:
 Bipole III Proposed Transmission Line Route - Manitoba Hydro
 Manitoba Protected Areas - MLI
 Manitoba Indian Reserve Lands - MLI
 Aerial Photographs/2m pixel resolution/5km tile reference - MLI



Swan Lake First Nation Bipole III EIS Review
Map 3 Heritage and Cultural Site Analysis

Prepared by: Hilderman Thomas Frank Cram
 Date: March 9, 2012



Map Projection: NAD 1983 UTM Zone 14N
 Transverse Mercator



Data Sources:
 Bipole III Proposed Transmission Line Route - Manitoba Hydro
 Heritage/Cultural - SLFN
 Aerial Photographs/2m pixel resolution/5km tile reference - MLI