

Peguis First Nation

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Thursday, December 20th, 2012

Minister Gord MacKintosh
Manitoba Conservation and Water Stewardship
Room 330
Manitoba Legislative Building
Winnipeg, Manitoba

Ms. Tracy Braun,
Director, Environmental Assessment and Licensing Branch
Manitoba Conservation
123 Main St. Suite 160
Winnipeg, Manitoba
R3C 1A5



Minister MacKintosh and Ms Braun:

**Re: Dorsey to Portage Transmission Environment Act Project –
Public Registry #5611.00**

Dear Minister MacKintosh & Director Braun,

We request this letter be filed in the public registry file for the Manitoba Hydro Dorsey to Portage Transmission Line Project. We note that EALB staff are aware our response to the Environment Survey Report for the project, and we expect our comments and this letter to be part of the official record for the proposal under the Environment Act. This would include posting on line and in the paper public registry file.

Peguis First Nation considers its nation, rights and its citizens to be impacted by the Dorsey to Portage Transmission Line Project. Most project components; Dorsey Converter Station upgrades, Portage South Transformer Station upgrades, and the Transmission line, fall within the Peguis Treaty Land Entitlement (TLE) notice area. The ESR states that MB Hydro attempted to contact Peguis First Nation, in order to participate in their community engagement activities. Manitoba Hydro combines consultation language with community engagement language in its Dorsey to Portage transmission project information: Consultation activities and the obligation to consult First Nations regarding this project, of course, are the responsibility of the provincial government.

There has been no initiation by the Manitoba government for consultation with Peguis First Nation regarding this Manitoba Hydro project. Information about the Peguis First Nation TLE notice area and TLE agreement is public, including it is provided in the Manitoba Geological Survey Map Gallery and database. As a public utility Manitoba Hydro is expected to be knowledgeable and responsive to First Nation rights and land acquisition agreements. As a signatory to our TLE Agreement, Manitoba, including Manitoba Conservation and Water Stewardship, need to ensure that government staff are up to

date about these matters. In particular when existing Manitoba Hydro infrastructure fall within our Nation's TLE notice area, such as the Dorsey Converter Station, it becomes obvious that any project that involves the Dorsey Station affects, also involves our First Nation.

Since August 2012 our efforts to identify the government staff persons in Manitoba Conservation and Water Stewardship, and in Aboriginal and Northern Affairs, or other departments who are responsible for community consultations for this and other transmission projects repeatedly failed. We request that staff immediately communicate with myself as Councilor, so we can move the consultation process forward.

Our review comments pertain to consultation assumptions; failure to incorporate traditional ecological knowledge (TEK), clarity and availability of ESR information and various environmental concerns, including those which may affect aboriginal rights. Most specifically Peguis First Nation is commenting on this Manitoba Hydro project because it, and existing infrastructure being upgraded, lie in our TLE notice area and our traditional territory. It is also the position of Peguis First Nation that environmental effects from a project also affect our aboriginal rights, and complicate our lands acquisitions.

1.) Consultation with First Nation Peoples

Consultation with affected First Nations should begin prior to initiating the environmental review process and filing ESR, EIS or EA statements under the Environment Act. The Crown has the responsibility for consulting with First Nations in a meaningful way, and communicating the outcome, concerns and issues raised by First Nations to the proponent and government, before making decisions. For the Dorsey to Portage Transmission Line Project (#5611.00), public 'consultation' was carried out by the proponent; Manitoba Hydro. The ESR frequently refers to consultation with landowners, First Nations and the public. This kind of reference by Manitoba Hydro has had to be corrected in the past. The Crown needs to also ensure that all proponents; Crown Corporations or otherwise, understand that it is the Crown's responsibility to conduct First Nation consultation, so they are mindful of their wording, pertaining to such activities within public documents. We would caution that having discussions with other First Nations who may indicate they are not affected in no way means that another first nation, such as Peguis First Nation, is therefore also not affected by this project.

Throughout the document no reference is made to Peguis First Nation traditional lands, Treaty One or the Peguis Treaty Land Entitlement (TLE) notice area. The Dorsey Converter Station is located within the Peguis First Nation TLE notice area, and the entire project falls within our traditional lands. Therefore any activity licensed or permitted within the Peguis TLE notice area or traditional lands, without consultation with Peguis First Nation, may well violate our Aboriginal and Treaty rights. Failure by Manitoba Hydro to recognize Peguis First Nation traditional lands, Treaty One and our TLE notice area is a recurrent theme. The Dorsey Converter Station, transmission line to the Portage South Station, The Station and Bipole I & II were built without consultation.

Since Bipole I & II and the Dorsey station were built the Constitution, Charter and laws of Canada have changed dramatically with respect to Aboriginal rights. Today if a First Nation indicates they are affected by a project then the Crown(s) are required to consult with that affected First Nation. Accommodation may also be required. It is essential also for all representatives of the Crown to understand that Aboriginal rights in Canada are not static. Through court decisions, and legal definitions, Aboriginal rights are moving forward with the rights of all Canadians.

2.) Traditional Knowledge

Peguis views incorporation of traditional ecological knowledge (TEK) to be a critical component for environmental effects assessments. Within the Wildlife, Heritage Resource Inventory Assessment (HRIA), Wildlife and Biophysical & Vegetation technical reports for this project, there is no mention of TEK or whether the information gathered during the community meetings was utilized to arrive at report conclusions. However, in the summary of the community engagement meetings, it states that local knowledge was utilized in general but it does not indicate how or source. TEK is highly relevant for assessing baseline ecological values and determining the presence of ecologically or culturally important wildlife or vegetation species. Furthermore, the identification of First Nation heritage/sacred sites requires Aboriginal Traditional Knowledge (ATK), which was not utilized when assessing the study area.

In particular, given Manitoba Hydro wishes to use the same corridor which currently includes the transmission line from Dorsey station to Portage south station – which were built and licensed with no TEK – it is now essential that steps be taken to correct the earlier omission. We note that no information regarding the existing transmission line and existing transmission project has been provided, despite the decision to use that same corridor and keep the existing transmission line.

It is evident from this ESR and the lack of First Nation community consultation by the Crown, that there is a break down in communication between the Crown, Manitoba Hydro, and affected First Nation communities. Due process must be followed in a consistent way from project to project, independent of perceived project magnitude.

Recommendations:

1. The Crown needs to adhere to their guiding document on Aboriginal and First Nation consultation, ensuring that the consultation process is consistent from project to project, including adequate and early notification.
2. Communicate to this proponent that First Nation consultation is carried out by the Crown, and to refrain from using the word consultation, when referring to First Nations.
3. Existing information in the hands of the Crown regarding archeological sites in the project region should be reviewed, and updated especially in relation to predictive modeling for other Archeological sites that may be Aboriginal.
4. All archeological field study needs to incorporate traditional ecological knowledge (TEK) and Aboriginal traditional knowledge (ATK) when surveying a study area for cultural heritage sites. Therefore the Dorsey to Portage Transmission Line study area should be re-assessed for culturally relevant sites using TEK and ATK and subject to supplemental filing.
5. The Crown needs to establish, in conjunction with First Nations, the definition of TEK and ATK, and how these are to apply to current and future developments within the province.

3.) Double Corridor Selected & Extreme Weather Events

The preferred corridor for this upgraded station and transmission line (D83P) is the current corridor containing the D12P transmission line, with some proposed adjustments for width and type of tower at certain locations. The ESR content does not indicate any potential risks associated with the corridor selection. However, the ESR does identify benefits of using the same corridor, including that Manitoba Hydro already holds the right of way. The ESR should include analysis of any possible risks of having the new towers and transmission lines within the same narrow corridor.

The risk of extreme weather events damaging transmission and energy station infrastructure is a real threat in Manitoba. For example, according to the Bipole III Environmental Impact Survey (EIS), in June 2007 a level 5 tornado knocked out Bipole I and Bipole II lines in a dual corridor in the area of Elie Manitoba, which is 30 Km south of the Dorsey Converter Station. This further speaks to the number and severity of extreme weather events that have been taking place in the within that region of the province.

Despite these trends, the ESR makes no mention of severe weather events potentially impacting the D12P/D83P dual transmission corridor, as well as the Dorsey Converter Station. In recent Bipole III proceedings, it was acknowledged that dual lines are at greater risk for damage, given their close proximity to other infrastructure. As it relates to Bipoles, there is an informal policy within Manitoba Hydro to develop single transmission line corridors due to the potential of severe weather rendering multiple adjacent lines inoperable. Given the high risk of severe weather impacting the proposed dual Dorsey to Portage transmission lines, it begs the question of whether Manitoba Hydro thought to apply this same policy to smaller lines in high risk areas, in order to mitigate and plan for potential damage. The proponent should provide the EALB and the public with an explanation as to risks, and the thinking about having these two transmission line close together.

Recommendations:

1. The Dorsey station to Portage upgrades and transmission project should be assessed in relation to risks from extreme weather events given the corridor will contain both transmission lines.
2. Address within the ESR the potential risks of utilizing the pre-existing corridor for a dual transmission system.
3. Make sure technical information about the existing transmission line in the corridor is part of each section in the ESR

4.) Advice Document & TAC Comments

It is not clear whether Manitoba Hydro followed the requirements in the EALB advice or guidance document regarding building transmission projects in Manitoba including this size of project. The EALB needs to provide this guidance or advice document in the public registry file, and Manitoba Hydro's ESR must be assessed in relation to the requirements of the Manitoba government. In past EALB advice and guidance documents were made available for review in order to facilitate thorough examination of the ESR/EIS. At this time Peguis First Nation's comments on the project are incomplete because the EALB guidance or advice document is not available.

Another useful source of information to assist with the ESR review and commentary would be comments and questions raised by the Technical Advisory Committee (TAC) for this project. In past, we found the TAC comments and questions very helpful when they were made available prior to the closing of the public comment period. To date these have not been available. Peguis First Nation reserves the option to file further comments when the TAC comments are made available.

Recommendations:

1. Make the EALB advice and guide document pertaining to class 2 transmission line projects available to the public for use during review.
2. Make sure that the EALB advice and guidance document has been fulfilled by the proponent.
3. Make the TAC comments available to the public prior to closing of the public review period.

4. Make the scoping document and ESR guidelines for this project available before filing of the ESR.

5.) Availability and Clarity of Project Information

As stated within the advertisements, the Manitoba Hydro ESR was accessible for public review at certain public registries November 3rd, with a closing date for public comment on December 3rd. Timely review of the ESR was difficult as it was not made available online until mid November, only after requests, including on behalf of Peguis First Nation, for it to be posted.

The general wording used by Manitoba Hydro with reference to naming of documents in this Environment Act process is problematic. During the public engagement meetings, the environmental assessment document for this project is called an Environment Impact Survey (EIS), however the report available online is called an Environment Survey Report (ESR). Furthermore, the initial pages of all supporting documents posted online do not show source of the document, and it is not clear what the documents are or who wrote them. For First Nations and members of the public not familiar with such documents, it is imperative that clear and consistent labeling be used in order to minimize confusion.

Certain information provided within the open house documents is also inconsistent with regards to what is present within the ESR itself. Vague content areas include the following:

- Not clear exactly how much land in total is required to expand the corridor
- Uses three different lengths for the corridor throughout the open house document; 70 km, 66 km and 64 km.
- States that the alternative route selection and environmental assessment would be completed by April 2012 and the ESR would be submitted May 2012. This is a very short period to legitimately include public input into the ESR in any sort of meaningful fashion.
- As stated previously, the ESR is referred to as an EIS
- There is no mention of follow-up with the public, land owners or First Nations following ESR submission and regulatory approval of the project.
- The ESR discusses a monitoring and follow-up program with the public land owners and First Nations, but this is not clear and there is no information about this program..
- ESR contents regarding information at the project open houses is provided as text documents and not cross referenced to the actual open house materials in the technical reports, and attachments.
- Table of contents is insufficient and not clear, especially about technical reports attached.

Recommendations:

1. Ensure that all EIS/ESR documents are available online and at public registries by the date that the comment period opens.
2. Use consistent and clear labeling for all documents – based on EALB standards and direction to proponents
3. EALB to issue clear glossary and definitions for all materials, and documents used and filed at every stage of Class 1,2,3 projects under Manitoba Environment Act.
4. EALB to consider making sure that information about a project that may affect First Nations is advertised in a manner that makes sure that public notification reaches members of potentially affected First Nations.
5. Ensure that all material presented in the open houses is consistent with that presented within the ESR and supporting documents.

6. Cross reference between contents in the ESR and materials in the attached technical reports.

6.) Environmental Concerns

On past occasions Peguis First Nation has voiced our concern regarding the impact of electromagnetic frequencies (EMFs) from transmission and converter projects, on the health and well being of people and wildlife. Given that this project involves the parallel transmission lines, further consideration should be given to the cumulative impact of dual lines on human and animal health, as well as on sensitive electronic equipment. The information provided within the report on the issue is limited at best, and requires a thorough review by an independent third party, before we find the response satisfactory. Until that point, our members will consider the issue unresolved and a potential threat to human and animal welfare.

In addition, Manitoba Hydro recently commissioned a technical review on this matter, so making that report available for this project also is a practical step which EALB should require. Low frequency electromagnetic fields (LF-EMF) are those frequencies below 300 Hz, which constitute electrical output from transmission lines. Scientific research on the subject provides evidence in support of LF-EMFs having potential adverse affects on human health. Studies investigating the correlation between LF-EMF and cancer incidence through epidemiological investigation have drawn inconclusive results.

However, at the molecular level, the impact of LF-EMF on cellular genomic stability is more apparent and easily measured. One of the primary underlying mechanisms of cancer development is through recurrent DNA damage and accumulation of genetic mutation. Numerous studies have investigated the relationship between genomic instability and exposure to LF-EMFs, observing an increased amount of DNA damage in LF-EMF exposed cell populations compared to controls. The references for the scientific literature are provided as an attachment to this letter. In future, when Manitoba Hydro states that there are no potential adverse affects to human health due to LF-EMF exposure, we recommend that they first complete a thorough review of the scientific literature to support their claims.

Herbicide application for the purpose of clearing and maintaining ROW is another pressing matter. The ESR is not clear on the types of herbicides to be used, frequency of application or the potential impact to surrounding farms, the environment and wildlife. The ESR does state that herbicide application near river crossings will be avoided, however it doesn't factor in the potential of herbicide contaminated water run-off into water crossings, or drainage from the herbicide treated corridor to other areas.

Establishing sound environmental and wildlife baseline values is a critical component when conducting field surveys and longitudinal studies, for purposes of comparison and affects assessment for any large development. According to the technical reports (Wildlife and Vegetation), baseline values for a variety of environmental components were not established through field study and analysis of up to date information. In the wildlife technical report it states that site-specific studies were not conducted for mammals, amphibians and reptiles, indicating that observation of these animals took place while conducting the extensive bird surveys or through pre-existing database analysis. In addition, the baseline values for vegetation are severely lacking, whereby field study was not conducted and assessments were based on outdated vegetation inventories.

The vegetation technical report states; *"Plant communities of conservation concern (Table 10) were also considered; however, emphasis was not placed on identifying these communities in the field since the classification and identification of these communities has not been updated since the mid-1990s.*

Also, presence of these communities in the general Project area was based on a desktop survey and was not confirmed in the field (C. Friesen, pers. comm.).” Overall, the technical report acknowledges that information used to develop the baseline values for vegetation is out of date and that the technical data is not fully accurate, however this is not conveyed within the ESR.

It is also worth highlighting the fact that within the VEC tables (4-1 through 4-3), there is information missing pertaining to the following;

- Under the section of biological environment, there are no columns for vegetation, wetland, wildlife and at risk wildlife species occurring within the footprint area/corridor. There is only mention of those environmental parameters lying outside the project footprint/corridor, which will be impacted by the project.

The ESR references the use of an Environmental Management System (EMS), which is the process within Manitoba Hydro established to guide Environmental Protection Plans (EnvPP), which are developed for each project and employed throughout the construction and operational phases of the project by all staff. In addition there is a Site Selection and Environmental Assessment process employed by Manitoba Hydro to initially select the development area. For all processes/programs mentioned it is unclear as to whether there are a set of guiding documents/standards, and whether these are available for public review.

Recommendations:

1. Conduct a thorough review on the health affects related to LF-EMF exposure in humans and animals. Make that review available in the comments process for this project.
2. Provide information on the types of herbicides to be used, their frequency of application and information on toxicity and adverse health effects upon exposure.
3. Manitoba Hydro to provide information about its demonstration projects regarding new approaches to keeping transmission corridors clear as part of the filing for this project.
4. Make the Environmental Protection Plans available for public review.
5. Provide full information about Manitoba Hydro’s environment management system methods, and how they arrive at environment protection plans for transmission projects – to show what will be protected, monitored and mitigated for this project.

Supplemental Filing Needed

Deficiencies and inconsistencies in this ESR/ EIS filing point to a lax approach based on assumption of a license being issued. A public utility must provide the highest standard of information, public process, and accuracy in its filings for projects, while avoiding preconceived notions about environmental effects of each project.

The areas of the ESR that are most lacking and require supplemental filing include:

1. The ESR needs to provide a suitable adverse affects section for the selection of the ROW, factoring in the implications of severe weather events and how they may impact the functionality of the transmission lines combined in one corridor.
2. Pertaining to vegetative species, a more in-depth field study should be conducted so that the information provided within the ESR is relevant and that baseline values are accurate.
3. Pertaining to the wildlife survey, mammals, amphibians and reptiles should be included within the field study in order to accurate baseline values of wildlife present in the study area.

4. Baseline information and context for the project from the initial transmission project, and initial Dorsey Station project should be available, and should be included in the effects assessment. Basically we have no cumulative effects information, and are adding to and making double use of a former transmission corridor.
5. Lack of consultation with our First Nation means that consultation now has to occur before any licensing decision is made. The obligation to make sure this occurs rests with the Crown.
6. Lack of accurate information and context regarding Peguis First Nation's TLE notice area, and traditional territory, especially given the location of Dorsey Station, means this ESR is deficient.
7. The ESR has no clear basis. That is none of the following are available; scoping document, ESR guidelines and guidance document for class 2 transmission projects.

Closing Comments:

Leaving out the Peguis First Nation TLE notice area when Manitoba Hydro prepared and filed the EIS for the Dorsey to Portage la Prairie transmission line is a breach of good faith and the honor of the Crown. As a public utility Manitoba Hydro is aware that our TLE notice area is in place so that Peguis First Nation can enhance economic opportunities, locate those opportunities, and enjoy economic benefits and employment from our TLE notice area. Instead we are not involved or included in the planning, assessment or economic outcomes from Manitoba Hydro projects which affect our First Nation.

These omissions by Manitoba Hydro, even after in person meetings with Manitoba Hydro personnel regarding this project, directly affect our ability to enjoy or exercise our Aboriginal rights. In particular our First Nation is engaged in TLE lands acquisition at the same time, with the result that we have incomplete information while we use resources to select lands.

Throughout each review of Manitoba Hydro projects there are a variety of consistent concerns that keep arising, due to the inability of Manitoba Hydro to properly address and rectify these issues, particularly pertaining to; First Nation consultation, Aboriginal and Treaty Rights, traditional land use, traditional ecological knowledge and the environment. Our land users and elders are asking repeat questions on these matters – and asking why the publicly owned utility cannot come up with better approaches to address these concerns. So far it appears that Manitoba Hydro wishes to keep separate its statements, and presentations on these matters in the proceedings for another transmission project. Due to failure to answer questions about this project by staff at Manitoba Hydro and EALB, a supplemental filing is required. This is especially important due to the lack of information regarding the existing transmission project being added to in the same corridor.

Yours with respect,

A handwritten signature in black ink, appearing to read 'Mike Sutherland', written in a cursive style.

Mike Sutherland
Councillor
Peguis First Nation

Copy to:
Peguis First Nation Chief & Council

Attachments:

1. Low Frequency Electromagnetic Frequency Literature List: *Exposure and Implications for Human Health*.
2. Peguis First Nation Base Map: Bipole III Corridor and Manitoba Hydro Infrastructure – Whelan Enns Associates Inc.

Attachment #1

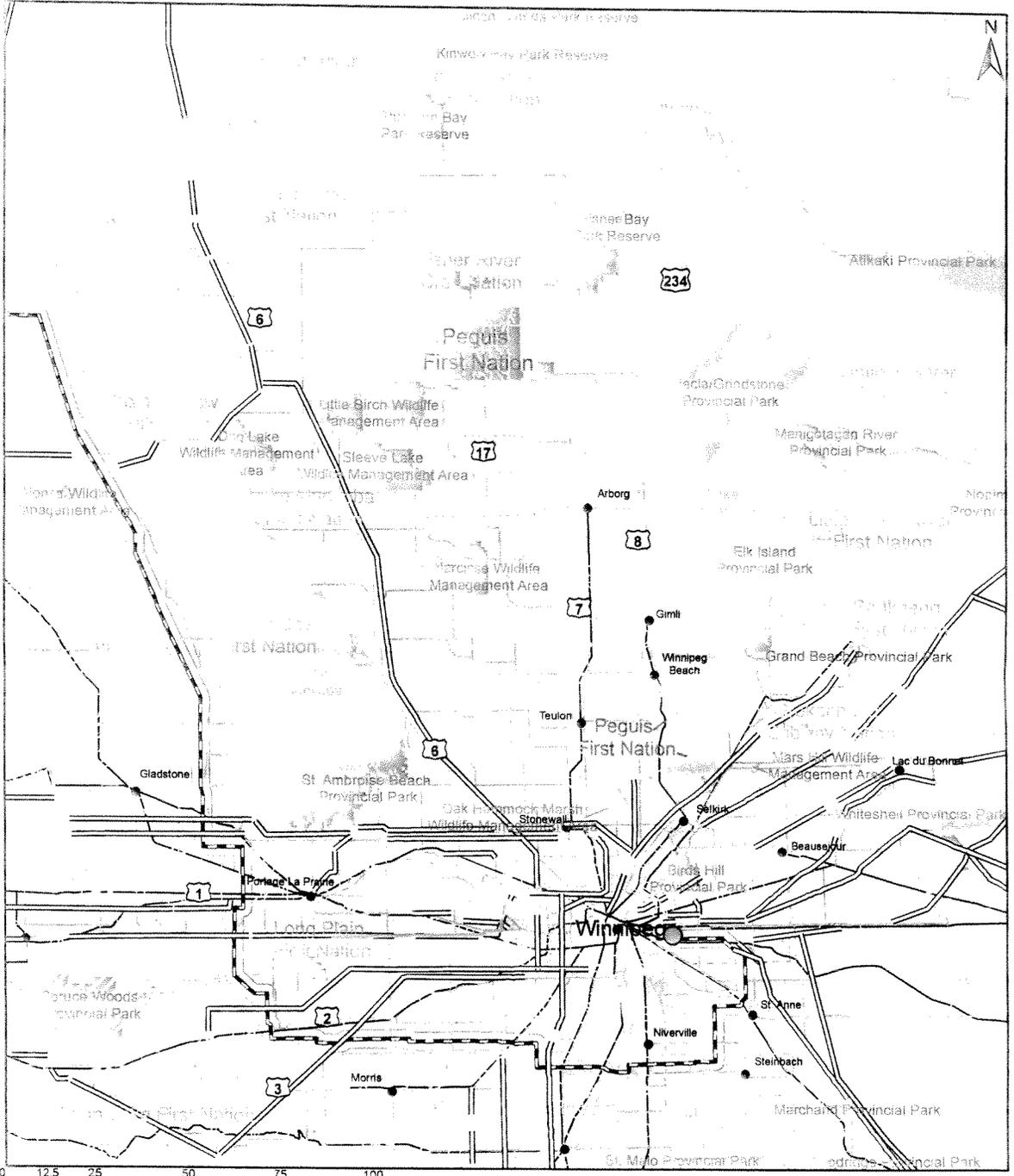
Peguis First Nation Dorsey to Portage Transmission Project Letter to Minister MacKintosh

Low Frequency Electromagnetic Frequency Literature List: *Exposure and Implications for Human Health*

The references listed provide a background detailing the potential adverse health implications associated with low-frequency electromagnetic frequencies (LF-EMFs) on various mammalian cell types, as it relates to genetic damage. This literature suggests that there are potentially greater health implications associated with long-term exposure to LF-EMFs, and that more research in the area of molecular biology and cancer development needs to be conducted before making any final conclusions, stating that LF-EMFs are inert and non-hazardous to human and animal welfare.

- Ahuja, Y. R., B. Vijayashree, et al. (1999). "In vitro effects of low-level, low-frequency electromagnetic fields on DNA damage in human leucocytes by comet assay." Indian Journal of Biochemistry and Biophysics **36**(5): 318-322.
- Hong, R., Y. Zhang, et al. (2005). "Effects of extremely low frequency electromagnetic fields on DNA of testicular cells and sperm chromatin structure in mice." Zhonghua lao dong wei sheng zhi ye bing za zhi = Zhonghua laodong weisheng zhiyebing zazhi = Chinese journal of industrial hygiene and occupational diseases **23**(6): 414-417.
- Ivancsits, S., E. Diem, et al. (2003). "Age-related effects on induction of DNA strand breaks by intermittent exposure to electromagnetic fields." Mechanisms of Ageing and Development **124**(7): 847-850.
- Ivancsits, S., E. Diem, et al. (2002). "Induction of DNA strand breaks by intermittent exposure to extremely-low-frequency electromagnetic fields in human diploid fibroblasts." Mutation Research - Genetic Toxicology and Environmental Mutagenesis **519**(1-2): 1-13.
- Ivancsits, S., A. Pilger, et al. (2005). "Cell type-specific genotoxic effects of intermittent extremely low-frequency electromagnetic fields." Mutation Research - Genetic Toxicology and Environmental Mutagenesis **583**(2): 184-188.
- Jajte, J., M. Zmysłony, et al. (2001). "Protective effect of melatonin against in vitro iron ions and 7 mT 50 Hz magnetic field-induced DNA damage in rat lymphocytes." Mutation Research - Fundamental and Molecular Mechanisms of Mutagenesis **483**(1-2): 57-64.
- Lai, H. and N. P. Singh (1997). "Melatonin and N-tert-butyl- α -phenylnitronone block 60-Hz magnetic field-induced DNA single and double strand breaks in rat brain cells." Journal of Pineal Research **22**(3): 152-162.
- Lai, H. and N. P. Singh (2004). "Magnetic field-induced DNA strand breaks in brain cells of the rat." Environmental Health Perspectives **112**(6): 687-694.
- Lourencini Da Silva, R., F. Albano, et al. (2000). "The effect of electromagnetic field exposure on the formation of DNA lesions." Redox Report **5**(5): 299-301.

- Phillips, J. L., N. P. Singh, et al. (2009). "Electromagnetic fields and DNA damage." Pathophysiology **16**(2-3): 79-88.
- Schmitz, C., E. Keller, et al. (2004). "50-Hz magnetic field exposure influences DNA repair and mitochondrial DNA synthesis of distinct cell types in brain and kidney of adult mice." Acta Neuropathologica **107**(3): 257-264.
- Svedenstål, B. M., K. J. Johanson, et al. (1999). "DNA damage induced in brain cells of CBA mice exposed to magnetic fields." In Vivo **13**(6): 551-552.
- Winker, R., S. Ivancsits, et al. (2005). "Chromosomal damage in human diploid fibroblasts by intermittent exposure to extremely low-frequency electromagnetic fields." Mutation Research - Genetic Toxicology and Environmental Mutagenesis **585**(1-2): 43-49.
- Wolf, F. I., A. Torsello, et al. (2005). "50-Hz extremely low frequency electromagnetic fields enhance cell proliferation and DNA damage: Possible involvement of a redox mechanism." Biochimica et Biophysica Acta - Molecular Cell Research **1743**(1-2): 120-129.
- Yokus, B., D. U. Cakir, et al. (2005). "Oxidative DNA damage in rats exposed to extremely low frequency electro magnetic fields." Free Radical Research **39**(3): 317-323.
- Zmyślony, M., J. Palus, et al. (2000). "DNA damage in rat lymphocytes treated in vitro with iron cations and exposed to 7 mT magnetic fields (static or 50 Hz)." Mutation Research - Fundamental and Molecular Mechanisms of Mutagenesis **453**(1): 89-96.



Legend	
	Riel Converter Station
	Railroads
	Roadways
	Power transmission line
	Bipole III Transmission Line
	Rosser to Portage La Prairie Transmission Line
	Final Preferred Route Local Study Area
	Designated Flood Area
	Protected Areas
	Peguis TLE Selection
	Peguis First Nation Reserve Land
	First Nation Reserve Land Regional
	TLE Notification Zone
	Project Study Area

Peguis First Nation Base Map Bipole III Corridor and Manitoba Hydro Infrastructure

Scale: 1:1 400 000
 Datum: NAD83
 Projection: UTM Zone 14N

Data Sources:
 ESRI: (Province, Inset)
 Manitoba Lands Initiative (Cities and Major Towns, Railroads, Roads, Parks, Protected Areas, Hydrology, TLE Notification Zone, Designated Flood Area);
 Geogratis (Peguis First Nation Reserve Land, First Nation Reserve Land) Manitoba Hydro (Transmission Lines)

November 26, 2012 V1

**Whelan Enns
Associates Inc.**

Friday December 21, 2012

Minister Gord MacKintosh
Manitoba Conservation and Water Stewardship
Room 330
Manitoba Legislative Building
Winnipeg, Manitoba

Ms. Tracy Braun,
Director, Environmental Assessment and Licensing Branch
Manitoba Conservation
123 Main St. Suite 160
Winnipeg, Manitoba
R3C 1A5



Minister MacKintosh and Ms Braun:

Re: Dorsey to Portage Transmission Line Project – Public Registry #5611.00

Manitoba Wildlands (MWL) is providing comments on the proposed Dorsey to Portage Transmission Line project (Public Registry #5611.00) Environment Survey Report (ESR). The comments we are providing serve to assist the proponent; Manitoba Hydro, and Manitoba Conservation & Water Stewardship Environmental Licensing Branch (EALB).

Our efforts and comments are provided for public interest, in an attempt to increase certainty, quality of assessment, consultation standards, technical and scientific content for the ESR, thereby informing and strengthening the public review process. Public works impact a significant portion of Manitoba's lands and water, use public funds, and consequently the review of these projects requires the highest quality planning, access to information, environmental effects assessment, public reviews and licensing process. As in previous cases related to Manitoba Hydro, the Crown is essentially licensing itself through approval of Manitoba Hydro projects, and therefore thorough public review is necessary.

After review of the ESR and supporting documents, we are providing a list of concerns and recommendations.

1.) Inadequate Review Period and Access to ESR documents

The issue of timeliness and posting of information in accordance with advertisements by the date listed in public registries and online, has been a consistent concern.. The advertisements stated that the ESR for the Dorsey to Portage transmission line would be available for public review by November 3rd 2012, with a closing date to receive comments by December 3rd. However, the ESR and supporting documents were not

made available online until mid-November. All notices posted based on the public registry should have RSS and subscriber ability, allowing for a greater number of Manitobans to gain access and review the material. All Manitobans are potentially impacted by Manitoba Hydro projects, not just those in close geographical proximity.

The Manitoba government may not want to make this project public, or assumed that it did not need public review under the Environment Act. All Manitoba Hydro projects should have public review, and all Class Two transmission projects under the Environment Act should have public review. When public funds, and public lands (including those owned by Manitoba Hydro or already held in ROW easements) are being used then the highest standard for access and transparency need to be operational.

Further to this point, upon review of the ESR and community engagement/open house materials, it should be stressed that clear labelling of documents with consistent titles is imperative. The community engagement/open house materials refer to the environmental assessment as the EIS, whereas the document is labelled as the ESR.

Recommendations:

1. Ensure all materials are made available on public registries and online by the dates posted within advertisements, so start dates for public review are consistent with access to those materials.
2. Make sure all messaging and document labeling is consistent. EALB can set guidelines for proponents so that a proposal, EIS, etc. is filed with documents in a format relevant to online posting.
3. All Manitoba Hydro transmission projects should have public review, with public posting, and online access to materials. Whatever the length of a transmission project, it is connected to a converter and sub station(s), and therefore connected to the whole Manitoba Hydro system. So public posting and review should take place.
4. EALB staff need to aim for the highest standard possible for public utility project reviews and licensing processes, as public funds and public lands and waters are used and affected.

EALB would increase confidence in Environment Act reviews, and licensing proceedings if it made sure that all Hydro projects, all transmission projects were made public, posted on line and underwent public review. There are a lot of single transmission projects coming into the system. Each connects to a converter station or sub station. Some will involve extensive upgrades to the station itself.

2.) Consultation with Aboriginal and First Nation Peoples

Notification and consultation with affected First Nations is the responsibility of the Crown. Since it was the proponent that contacted affected First Nations, it is questionable whether the Crown notified and followed through with First Nation consultation with Long Plain, Dakota Tipi, Dakota Plain and Peguis First Nation. If

effective consultation had taken place, traditional ecological knowledge (TEK)/aboriginal traditional knowledge (ATK) would have been incorporated into the ESR and considered by Manitoba Hydro when conducting their initial study area surveys for the technical reports. As it stands, there is no reference to TEK or ATK within the ESR.

Recommendations:

1. The Crown needs to ensure that they consistently conduct First Nation Consultation with all affected First Nation communities according to government of Manitoba Aboriginal Consultation guidelines.

3.) Regulatory, Project Scope, Guidelines and Alternatives

The ESR does not disclose what upgrades are required for the Dorsey Converter station and Portage Station, stating that explanation is not necessary since it is Manitoba Hydro property. Despite being on Manitoba Hydro property, any upgrades to infrastructure are funded by Manitobans, and alterations/upgrades to infrastructure may impact/benefit other connected Manitoba Hydro projects. Neglecting to include this information in the ESR should be rectified, since there is no such thing as a stand-alone Manitoba Hydro project. Since Manitoba Hydro is a publicly owned utility, it should completely disclose all activity. Otherwise this is like refusing to tell the shareholders in a company what capital projects or upgrades the company is planning, or executing.

Since the new D83P transmission line will run in parallel with the existing D12P transmission line in the same corridor, more information on the current D12P transmission infrastructure should have been included in the ESR. It would have been relevant to discuss the future upgrade schedule for the D12P line, as it may impact D83P.

Given the sheer number of Manitoba Hydro projects currently under review, it is unclear within the ESR how the Dorsey to Portage Transmission Line project ties in with pre-existing transmission and generation infrastructure. There is the obvious explanation that it is merely a transmission line to direct power to south western Manitoba from the Dorsey Converter Station. However, the question remains whether it will be linked with Bipole I, II and/or III. In particular any transmission project proposal filed by Manitoba Hydro under the Environment Act, should clearly state which converter station, Bipole and/or other stations that transmission project will connect to.

This issue could have been addressed with an initial scoping document, as it would have laid out components of the project, and its relation to other Manitoba Hydro transmission and generation projects.

Further to the lack of a scoping document or EIS guidelines for this project, the EALB standards for class 2 transmission line developments are also not publically available. This is a complete lack of transparency between the Crown, Manitoba Hydro and the public, despite the fact that all Manitoba Hydro projects are developed using public funds.

Finally, the ESR does not pose any suitable alternatives to the project. There are three general corridor routes proposed, A, B and C. However it is stated that there are no alternatives, since the project is necessary in order to ensure adequate transmission to south western Manitoba. The alternatives section within any ESR provides an opportunity for the proponent to explore potentially better or additional options in case the preferred option is no longer viable. Therefore, serious consideration and research needs to be invested into the “alternatives” section of an ESR, rather than forgoing the effort and not addressing the issue. Manitoba Hydro needs to provide more information in this ESR, and for any further transmission project, to support the need for the project.

It would have been helpful for Technical Advisory Committee (TAC) comments for this project to be available within the public registry, prior to closure of the public comment period. TAC comments provide an invaluable source of information and guidance, facilitating a more in-depth review and understanding of the material presented within the ESR.

Recommendations:

- 1.) The EALB should provide an initial Scoping document for all projects, making available the scoping document on the public registry. Any guidance document or EIS guidelines for transmission projects should also be posted.
- 2.) For all Crown Corporation developments, a section within all EIS/ESR documents should be required that describes how the proposed development will link up will surrounding infrastructure.
- 3.) Make publically available the EALB ESR guidelines for class 2 developments.
- 4.) Sufficiently address within the ESR a list of legitimate alternatives to the project that are well researched in the event that alternatives need to be pursued.
- 5.) Manitoba Hydro needs to disclose the transmission lines that would connect to this new line (D83P), the Dorsey Converter and the Portage station. A clear statement also needs to be provided on how the proposed project will tie in within existing and future planned generation and transmission infrastructure.
- 6.) All upgrades to the Dorsey Converter Station and Portage Sub-Station need to be disclosed within the ESR.
- 7.) More information about the existing transmission line and corridor, and access to past documents for the D12P transmission line and corridor should be available. Discussion of the existing transmission line, and how much energy it carries should also be included.
- 8.) TAC comments for this project should be available before closing of the public comment period, so as to assist the public in conducting a thorough review of the project.

4.) Environmental Concerns

There are a variety of environmental issues poorly addressed within the ESR, therefore requiring considerable attention and supplemental filing. For the sake of brevity the following four areas need to be thoroughly addressed;

1.) Manitoba Hydro does not stipulate what standards are in place for river crossings when establishing new infrastructure and clearing of vegetation. It is assumed that overhead and proximal structures do not impact river integrity, yet when the landscape is altered, the surrounding environment is changed as a consequence.

2.) Establishing well researched environmental baseline values is an important component of any environmental assessment or survey or study as it sets the bar for comparison when assessing environmental impacts, monitoring and mitigation processes. The technical reports that accompany the Dorsey to Portage Transmission line project state that baseline values for vegetation, amphibians, reptilians and mammals were not established through field study or current database information. The technical reports clearly acknowledge that key baseline parameters were not measured, however no justification as to the rationale for not conducting the required field surveys was provided. It should also be noted that the technical reports for wildlife and heritage sites, were also lacking content from inclusion of TEK/ATK information.

Further to this issue, The Manitoba Government has a policy to protect endangered tall grass prairie species. In the past a variety of tall grass prairie sites were catalogued in south western, south eastern and central Manitoba, some of which may potentially fall within the Dorsey to Portage Transmission Line study area. There is no indication whether Manitoba Hydro reviewed the provincial tall grass prairie or fescue prairie site inventory: assembled at public expense for decision making about land use. The tall grass prairie ecosystem is the most endangered in Canada, and the Manitoba government has invested heavily in identification of remnant sites and protection of all sites: therefore, Manitoba Hydro appears to be ignoring its responsibilities.

3.) There is a concern that endangered tall grass prairie species may be present within the study area and more specifically the corridor. The ESR indicates that herbicide application will be used, in addition to a variety of other methods, to clear the corridor of unwanted vegetation. Consequently, it is important to address the use of herbicides for corridor clearing, and how application will affect endangered tall grass species. There is no information available within the ESR about which herbicides are to be used, their specificity for plant species and frequency of application. The question also arises of what impact will these herbicides have in aquatic environments once they are washed into surrounding rivers. The ESR should have included information about the ongoing practices to keep the corridor clear, as an existing corridor has been selected as the preferred route.

5.) Energy Strategy

The Manitoba Government has a new clean energy strategy, which emphasizes the importance of Manitoba Hydro in assisting the province to become a leader in renewable energy generation. A critical component overlooked within this strategy, is that becoming an economic leader as a Crown Corporation, requires the utility to uphold a set of standards for accountability, transparency and community engagement, which make other principles of the strategy possible; environmental protection, affordable energy and adequate supply. Manitoba Hydro is currently developing a variety of projects. The clean energy agenda of the Province can be significantly advanced if the government ensures Manitoba Hydro is fulfilling its business agreements and licences to operate; fulfilling its sustainable development principles, pursuing more viable alternative energy options, and engaging the public and First Nations in a meaningful way.

Further to the clean energy strategy, a clear outline of the energy efficiency goals of Manitoba Hydro need to be presented, along with their long-term plans of reducing usage through increased energy saving measures. Since the proposal is essentially for the establishment of a dual line, the energy metrics provided should take into account transmission for both D12P and D83P lines. The energy usage metrics should indicate the following; current usage, estimated future usage, energy efficiency goals, how leaving the current infrastructure in place helps to satisfy those goals and finally how the proposed project will further the clean energy agenda.

Recommendations:

- 1.) With respect to this project, and review clear information about intended and connected transmission and infrastructure energy projects should be made available within the ESR.
- 2.) A clear statement of how the projects meets the goals and objectives of the Manitoba Clean Energy Strategy, and Manitoba Hydro's sustainable development principles should be included in each EIS or ESR for a transmission project.

Supplemental Filing Needed

Due to the mentioned deficiencies and gaps within the ESR, a supplemental filing is required. A public utility must present unbiased information, in keeping with consistent standards that are applied uniformly to all projects. Below is a list of recommendations for supplemental filings for the Dorsey to Portage Transmission Line project;

- 1) Field studies should be conducted to identify tall grass prairie and fescue prairie sites based on existing inventory and ranking of these two ecosystems and their species. Any species in or adjacent to the project study area need to be identified with mitigation plans put in place;
- 2) EALB guideline for short transmission systems and standards for the scoping document or the EIS/ESR for this project should be made available;



- 3) A more in-depth report needs to be provided on herbicide use, application frequency and impact to aquatic species and ecosystems (terrestrial and aquatic);
- 4) Manitoba Hydro and Manitoba Conservation standards for river crossings should be cited and included in the project plan;
- 5) Manitoba Hydro standards for class 2 transmission projects were not included and should be provided;
- 6) Detailed information on all upgrades to the Dorsey Converter Station and Portage Station should be included in the ESR;
- 7) The ESR should reference the new Manitoba Clean Energy Strategy, stating how the transmission project meets requirements of that strategy;
- 8) The lack of information about increased energy requirements in southwestern Manitoba within the filings creates doubt: Manitoba Hydro should be providing an explanation of the need for this project.

For all projects related to Manitoba Hydro, a Crown Corporation, there is an potential conflict of interest because all projects are reviewed and licensed by the Crown: this is self assessment. Therefore, greater effort should be made to ensure document clarity, timely access to all relevant information, thorough field studies from which technical reports are based and transparency throughout the licensing process. These project materials do not fulfil the public interest, or Manitoba Hydro's business, social or environmental licence requirements.

Sincerely,

Gaile Whelan Enns, Director
Manitoba Wildlands