

Public Testimony on Heritage Resources Inventory and Impact Assessment
for the Wuskwatim Projects

Presented to:

Manitoba Clean Environment Commission

Prepared by:

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Introduction:

I've been asked to be here today to testify about issues related to the inventory, protection, and on-going management of cultural resources that have the potential to be or already are adversely impacted by the proposed Wuskwatim Project. These concerns will address separately the Burntwood River to Wuskwatim Lake archaeological survey and the heritage resource impact statements prepared for Hydro's Generation and Transmission Projects.

I first became involved professionally in Northern Manitoba when I accepted a contract to work on behalf of several of the stakeholders directly or indirectly involved here today. These individuals are Dale Hutchison, Mitigation Officer in the Aboriginal Affairs Office for Manitoba Hydro, Pat Badertscher, Manager of the Archaeological Assessment Services in the Historic Resources Branch of Manitoba Culture, Heritage and Tourism and finally representatives from the Pimicikamak Cree Nation and their Northern Flood Agreement Offices.

With the exception of Manitoba Hydro, who chose not to participate directly, I, along with representatives from each of these agencies formed a cultural resource's planning group. We devoted three weeks working together drafting an Integrated cultural resources management plan for the Pimicikamak Cree Nation, as well as an Intensive Archaeological Survey Plan for Sipiweesk Lake. Through the course of these meetings our group also had the opportunity to meet and discuss our project with Dr. Leigh Syms from the Manitoba Museum and Marcia Stentz and Chris Kotecki of the Manitoba Archives. It was anticipated that they too would be part of our working group when we addressed issues pertinent to their departments.

Prior to this, I made two extended trips to Cross Lake and Sipiweesk Lake for the purpose of seeing for myself, from a boat and a float plane, the impact Hydro operations was having on archaeological sites and cultural properties there. During this time, I was able to talk with several traditional Cree People talk about cultural heritage issues, especially those concerning the damage and loss of their ancestral burial sites and cemeteries due to erosion caused by fluctuating water levels.

Despite this illuminating experience, I still consider myself a relative outsider, therefore, a very pertinent question is why I've been asked and have agreed to testify here today? It's a question that I feel is extremely important, and therefore, it's one that I intend to address later in my presentation. For now, however, I wish to remind everyone here today that despite there having been no other archaeologist testify, there are numerous others in Manitoba and beyond whom share the same or similar concerns that I have about this project. Some of their published and unpublished comments are included in my testimony, as well.

It will be made abundantly clear through my testimony that a very large number of heritage resources have already been or will soon be damaged or lost due to these projects. Therefore, my only practical purpose for being here today, is to hopefully gain

the needed support necessary to minimize and make less painful that loss in the days, weeks, months, and years to come – especially among the descendant communities who can rightfully claim a cultural affiliation and perhaps even outright ownership of many of these resources.

Too, I hope my testimony will inspire a more equitable and open process that leads to a much higher degree of professionalism in the future of Hydro development in Manitoba. Common sense tells us that by pursuing anything else will result in all parties losing something significant in the process. This logic is based on a uniquely democratic principal that seems to have already been demonstrated throughout the almost three-decades of building dams in Manitoba -- without fairness, equality and justice there are no winners and no victory -- and among its citizens, government has no real legitimacy.

Although I do not profess to be an attorney, the legal and philosophical basis of my testimony is an ancient principal that's being used today around the globe in environmental disputes. The Public Trust Doctrine, which dates to Roman times, establishes the right of public benefits over private property. I propose that the cultural heritage rights of indigenous peoples, living or not, be considered publicly held commons that fall under the legal category of intellectual and real property rights. And until the Cree and Ojibwa peoples are able to manage the resource themselves, one of government's fiduciary responsibilities is to hold them in trust. In doing so it is the responsibility of government representatives such as this Commission to insure that all necessary steps are taken relative to maintaining their inventory, physical integrity and their preservation.

Finally, the scope-of-work of this testimony is twofold; first, to evaluate selected portions of the EIS relative to its legal sufficiency and how well it meets or doesn't meet professional archaeological and cultural resources management standards. This evaluation will not be exhaustive but is simply meant to highlight a number of key points concerning the accuracy and thoroughness of the heritage resources assessment protocol and resulting reports. Next, I will offer a few general observations about the heritage management system Manitoba has in place that appears to have given rise to some of its short-comings.

I'm indebted to a number of experts and scholars who, through their writings have given me a great deal of insight and guidance in preparing this testimony. First and foremost Nelson House band member Eva Marie Linklater's masters thesis was and will continue to be a core reference for any future work I might be asked to do in Northern Manitoba. Dr. Thomas King, author of several volumes on cultural resource management were used extensively in the area of practice and standards for professionalism in cultural resources management. Nearly the entire section on "Approach and Methodology" is consistent with or taken from the approach Dr. King outlines in his book, "Cultural Resource Laws and Practice: An Introductory Guide". Finally, Dr. Marie Battiste, Professor of Indian Education from the University of Saskatchewan and James Youngblood Henderson, an Indian Law attorney and member of the University of Saskatchewan College of Law, have published a book titled "Protecting Indigenous Knowledge and Heritage" that I

referred to frequently in my efforts to learn and understand indigenous peoples heritage rights in Canada. Other sources are cited in the main body of this testimony.

Defining the Resources:

One of the many challenges of my working in Canada has been trying to figure out the discipline-related terminology and their meanings. For example, the author(s) of the Wuskwatim Transmission Project Heritage Resources Environmental Impact Statement Supporting Document No. 8 defines heritage resources simply as, “indicators of past human activities, they provide valuable information about past life ways, are the link between past and present generations, and are the surviving tangible remnants of one’s culture” (2003). It’s important to note that this exact definition is also used in the Wuskwatim Generation Project Heritage Resources Impact Statement (2003) that was authored by the Manitoba Archaeology Section.

The difficulty with this definition is that it doesn’t say what these resources are -- only what the authors propose that they do. Rather, what’s a well-defined, observable universe of data and/or cultural properties which to observe. In this case archaeologists need to identify cultural material that can be inventoried, analyzed, measured, depicted on a topographic map and assessed for future impact. Northern Lights Heritage Services, Inc., however, neglected to define for the reader and themselves just what the material or property is that they’ve set out to assess. This oversight gives rise to the argument that if the resources (property or data) hasn’t been properly identified and described, how then could it have been thoroughly assessed for possible damage or destruction?

A much more accurate, relevant, and useful working definition of “Cultural Heritage Resources” is found in a report commissioned by the World Commission on Dams, titled: Dams and Cultural Heritage Management (2000). The authors describe “Cultural Heritage” as comprising:

1. Cultural resources of living populations (e.g., their mode of subsistence, social organization, religion, ideology, political organization, language, and material expression of their ideas and practices which range from sacred elements of the natural landscape to artifacts and buildings.
2. Archaeological Resources (e.g., occurrences and sites which may include artifacts, plant and animal remains associated with human activities, burials, and architectural elements which may or may not be an integral part of the cultural heritage of the local inhabitants; and
3. Cultural landscapes which consist of landforms and biotic as well as non-biotic features of the land resulting from cultural practices over historical or even prehistoric times, by generations of peoples of one or more cultural traditions. These resources constitute the cultural heritage of a people, nation, or humanity.

Each class of cultural and/or heritage resources is defined in a way so that it can be observed on the landscape and in some way inventoried, assessed and quantified. Impacts

on links to past life ways cannot be evaluated in this manner but the remnants of historic buildings, traditional cultural properties and culturally significant biotic environments can be.

In the ensuing pages of the heritage resource impact statement only archaeological resources are evaluated. Although “cultural components” is mentioned in the methodology section of the report the author doesn’t describe what those are.

In summary, only one of the three classes of heritage resources, according to the World Commission on Dams definition, are even addressed in the impact statement, leaving cultural or historic landscapes, and cultural resources of living populations omitted almost entirely from the field survey, hence, the potential impact these projects will have on them.

Approach and Methodology:

Lake Wuskwatim Archaeological Survey Report: Survey methodology is the single most important step in conducting field research. It should describe not only how the survey will be carried out, but perhaps more important, how and why the methods chosen are the most appropriate choices in order to address the goals of the research. In other words, the research goals are what guide the selection and use of particular types of methodology. In this survey report the research goals are not clearly stated but rather inferred under the heading of “aims” in a section of the report labeled “research strategy”. Several things seem clear from reading this list of aims; first, the fieldwork pursues mainly, if not exclusively, archaeological deposits versus the other types of cultural resources described earlier.

Closely related to this oversight is the fact that there were no formal informant interviews or oral histories conducted? Ideally these interviews would have been among those persons who themselves or their ancestors have lived, worked, extracted resources or even simply spent leisure time on Wuskwatim lake, over a period of many years. In a study such as this, informant interviews are mandatory if the goal of the investigation is to locate not only archaeological deposits, but cultural resources of living populations and the elements of cultural and historic landscapes as well.

Although there were indigenous workers involved in the survey, no evidence was presented that states that they were noted traditional cultural authorities regarding the area that was surveyed. Based on past experience, those who are most familiar with a survey area are usually elders from nearby communities who, for health reasons would not be capable of working in the field. Usually, a somewhat formal concerted effort is needed to locate, arrange for interviews and provide honorariums to these extremely valuable survey participants.

A second important goal of informant interviews is not only to ask informants where resources are located but also to begin to inquire about which resources the inhabitants of an area are most concerned about. This is especially important in cases where the local

population might be culturally affiliated with the material being impacted and/or accessioned. It follows that in some cases, heritage resources such as historic burial sites, cemeteries and the remains of certain structures might be traceable not only to a local band but individual family members within that band as well. The rightful owner(s) of the property should govern in which case ownership rights can be established and protocols created for recovery. In instances where evidence exists for even prehistoric materials to be culturally affiliated with a living population, intellectual property rights might apply and discussions should ensue regarding the final disposition of the property.

In addition to cultural affiliation inquiries, surrounding communities should always be consulted before research is conducted on or near Indian land. In these formally arranged consultation meetings, the principal investigator should explain what the research goals of the investigation are, where the study will be conducted, what methods will be used and finally, the purpose and anticipated outcome of the study. Even more important the investigator must actively seek-out and listen to the concerns and interests expressed by the local informants and where appropriate, integrate those concerns into the overall survey plan.

Careful attention must be paid to contextual matters and the differences between indigenous knowledge and Euro-centric knowledge. This is especially important on matters that concern sacred places such as burial sites and cemeteries. In nearly all cases, locally recognized traditional cultural authorities and/or spiritual leaders should be consulted and permission given by them before any disturbance is made to human burials. Also, it is expected that recognized traditional cultural authorities or spiritual leaders would be present on-site to monitor and guide the exhumation process.

The professional underpinnings for this requirement are described in detail in the following:

- The World Archaeological Congress Code of Ethics
- The Canadian Archaeological Association Statement for Ethical Conduct Pertaining to Aboriginal People
- The Canadian Archaeological Association Principles of Ethical Conduct
- Register of Professional Archaeologists: Code of Conduct and Standards of Research Performance.

It's apparent in reading the aims of the fieldwork that emphasis was placed on revisiting sites that were recorded during previous investigations. A second emphasis was to assess sites that have already been impacted by erosion etc., and to recommend mitigation measures. It appears that in each case, the preferred mitigation measures were to salvage (surface collect) as much of the site as possible. By most professional survey standards, salvaging work can be important but is usually farther down the list of mitigation preferences. The first priority should be to locate sites that have not yet been adversely impacted by erosion etc. It's only among undamaged sites that full inquiries can be made concerning site size, cultural context(s), seasonal occupation(s), site function, site formation processes etc. In order to locate these sites much more emphasis should have been placed

on subsurface testing relative to habitable features on the landscape. Specifically, the focus of subsurface testing locations can be minimally defined as habitable, level, and well-drained surfaces lying within 100 meters of riparian features and wetland edges, as well as post-Pleistocene terraces, beaches, and strand lines.

A rather sad irony arises from this postmortem methodology -- in that the archaeologists themselves facilitate the loss and destruction of the very resources they are professionally, ethically, and morally responsible to make every possible effort to document as completely as possible or preserve.

Although it should have been known prior to the fieldwork that at least one significant historic period site was situated within the survey area, it appears from the reports content and bibliography that there was little or no library and archival investigation carried out relative to this particular site. Early maps, missionary journals, and related Hudson Bay records are not referenced as having been consulted in order to locate other potential historic period indigenous and perhaps additional Euro-Canadian sites situated in the study area.

Once again, an intensive and well-documented pre-survey archival investigation is both critically important and standard procedure in conducting either intensive or reconnaissance archaeological surveys. In many instances significant historic properties can be located on early maps of the region long before even fieldwork begins. One of the aims of the fieldwork then becomes “ground- truthing” those locations to test the accuracy of the map(s), as well as recording the condition and relevant archaeological details of the site that are only rarely described in written documents.

The report did not include a historic or archaeological context of the survey region. The importance of this omission is readily understood by examining its purpose. The historic context organizes information based on a cultural theme bounded by geographic and chronological limits. A context is intended to describe the significant patterns of development in a particular area or region. It's a local prehistory and history that should be used as the foundation for decisions about identification, evaluation, registration, and treatment of archaeological property. It also helps to identify gaps in the archival and/or archaeological record. For this reason, it's difficult to understand on what basis a site rating system was established, as was done in this survey report. That system identified sites as having a high, medium or low priority as far as mitigation was concerned. It is proposed here that this or any system is invalid unless living cultures play – are asked to play an equal, if not dominant role in deciding how sites get rated.

Perhaps most important, the cultural or archaeological context is meant to provide a synthesis of intangible cultural values of the local indigenous peoples. It is used to identify aspects of the landscape or physical locations that have religious, ceremonial or traditional cultural significance to the indigenous peoples in the region. For example, a completed cultural context would have identified locations within the survey region that were once or are currently used as trap lines, ceremonial or meeting places, dance circles, fish camps etc.

In this writer's opinion the report's most significant omission is not identifying on detailed maps the area of potential effect (APE) in more specific detail. By not doing so it's not possible to justify why some sections of the research area were intensely surveyed while others are not. For example, what justification is there for expending extremely limited time, manpower and resources to investigate an area that might not be impacted or only minimally impacted by current or future Hydro projects?

The other value of a well-defined APE is to be able to compare the expected rate of erosion or other damage to specific site locations relative to their elevation, geology and soil type. This information can then be used for mitigation planning and monitoring. In doing so significant sites can be protected and/or data recovery can be carried out before a predictable pattern of erosion or other impacts occur.

Another serious oversight that relates to mapping is the need to show the precise areas where pedestrian surveys or shovel testing was carried out along with the locations of the test pits or excavation units themselves. It's also important for the researcher to provide a rationale for both the number and spacing of the testing units. These data are often used to evaluate how thoroughly a survey area has been investigated. Within some agencies in the U.S. and elsewhere a specific number of testing units must be carried out relative to the presence of habitation features. It is also important to map the exterior boundaries of site locations so that site size can be determined. These data, along with TCP locations are usually kept secure from the general public. The locations of TCP's might be shared only with designated band members.

On a related topic, the reader questions the use of the term mitigation for what most archaeologists would label salvage archaeology or "surface collecting. Using the popular definition of "mitigation" it's impossible to lessen the impact or minimize the effect of having a sacred site such as a human burial that's been washed into a fast moving river. And even if these sites are excavated and the remains taken to a museum for C-14 dating, it does nothing to lessen the collective pain a community feels when one of its own is removed from the sacred ground where they were presumably intended to remain forever. The researcher must keep in mind at all times that their priorities are usually science-related while the local indigenous communities are almost always for the care and protection of the deceased. They commonly and rightfully consider themselves the spokespersons for those relations who are no longer able to speak for themselves. This relationship is in many cases sacred on both a community and personal level.

Effective mitigation of sites that have importance to living cultures is a function of informed consultation. It should be carried out when there's still an opportunity to prevent the loss and destruction of cultural resources – which means it must take place at the earliest possible stage of project planning. Entering into consultation after the resources have already been impacted or destroyed serves mainly as a perfunctory bureaucratic tool meant to somehow legitimize the damage that's been bestowed on the victims.

Lastly, the author wisely includes recommendations for future work for nearly every site referred to in the survey report. This presenter strongly recommends that an official and well-documented follow-up be done to determine which, if any, of those recommendations were carried out and what were the results. This is especially important for those 12 sites that have the potential to be associated with human burials and cemeteries.

In conclusion, the fieldwork and final report appear to be critically incomplete. More specifically, field procedures are inadequate by commonly accepted professional standards mainly because they seem to have excluded, almost entirely, participation by the primary stakeholders – a broad representation of the aboriginal community who has lived in the Wuskwatim Lake and Burntwood River region. Consequently, the cultural and historical landscapes of these living communities have the potential of being irreparably destroyed and the cultural heritage they represent will be lost forever if the projects are allowed to move forward as planned. In this presenter's opinion any further action that leads to the licensing of this project will be done contrary to the numerous provincial, federal and international laws that are yet to be satisfied and in most cases, even considered.

Wuskwatim Transmission and Generation Project Heritage Resources Impact Statements: The first basic step in preparing a thorough cultural resource impact assessment is to establish the legal and regulatory requirements that are necessary to consider in light of the potential impacts on the resource. In other words, the researcher needs to know which laws, covenants, or regulations speak directly to the impact that's about to occur and/or the kind of license that's about to be granted. By omitting this important review, the agent(s) of the impact assessment may be responsible for the adverse impacts that might occur. What's more, and in this particular instance, this oversight has the potential to adversely affect the heritage rights, as well of the basic human rights of Northern Manitoba's indigenous peoples. It is the researcher's responsibility, therefore, to coordinate the assessment process with the relevant legal mandates that ascribe to the full range of impacts and impacted parties. An abbreviated list of the documents that should be referenced in this assessment is likely to include:

- United Nations Economic and Social Council's Mandate on the Principals and Guidelines for the Protection of the Heritage of Indigenous Peoples
- Universal Declaration of Human Rights, General Assembly Resolution 217
- Canadian Charter of Rights and Freedoms
- Manitoba Human Rights Code
- UNESCO Universal Declaration on Cultural Diversity
- Manitoba Multicultural Act
- Declaration of Principals of Indigenous Rights, Adopted by the Fourth General Assembly of the World Council of Indigenous Peoples
- United Nations Covenant on Civil and Political Rights
- United Nations Covenant on Economic, Social and Political Rights.
- Royal Proclamation of 1763
- Constitution Act of 1982

- Treaty No. 5
- Canadian Commission on Aboriginal Peoples

Still another set of laws and regulations that are relevant to the actual heritage resources includes:

- Manitoba Cemeteries Act
- The Crown Lands Act
- Manitoba Energy Act
- Manitoba Environment Act
- Manitoba Ethnocultural Advisory and Advocacy Council Act
- Heritage Manitoba Act
- Heritage Resources Act
- Manitoba Interpretation Act
- Indian Act
- North American Environmental Cooperation Agreement with the United States and Mexico
- Manitoba Land Rehabilitation Act
- Law of Property Act
- Manitoba Museum Act
- Manitoba Archives Act
- National Historic Sites and Monuments Act
- National Museums Act
- Cultural Property Export and Import Act
- RECAP Guidelines for Research in Canada
- Constitution of Canada
- The Crown Corporations Public Review and Accountability Act
- United Nations Intellectual Property Regime
- Canadian Environmental Assessment Act

The only three statutes or laws were referenced or otherwise addressed in the impact assessment documents appear to be the Canadian Environmental Assessment Act, The Manitoba Environment Act, and the Manitoba Heritage Resources Act.

The next important step is informal scoping. During this process the area of potential effect is determined along with descriptions of the anticipated types of impacts. For example, construction might cause physical impacts on resources while the placement of cement pads and transmission towers might cause visual, auditory and stray voltage impacts on the surrounding environment. It's during this stage that the researcher must ascertain all other potential impacts including but not limited to; aboriginal sacred sites and religious practices, medicinal plants, subsistence practices, special cultural and economic concerns of low-income and minority populations, and archaeological data.

It should be emphasized, once again, that the location of some of the resources might be sensitive to indigenous communities, therefore, consultations about them should not be carried out in public meetings.

No such informal scoping procedure appears to have been completed in either report, however, physical impacts including erosion and construction is mentioned where appropriate. Unfortunately, neither report contains a map showing the area of potential effect.

Based on the results of the scoping, the next step in ascertaining impacts on cultural resources is the use of an intensive, interdisciplinary effort to try to identify the resources that may be affected. A partial list would include:

- Indigenous cultural items: human remains associated and unassociated funerary items, sacred objects.
- Archaeological resources
- Archaeological, historical, and scientific data
- Indigenous religious practices that may or may not relate to cultural items.
- Cultural uses of the natural environment including plants, animals, aquatic resources, use of plants and animals along with ceremonial or other religious use of the landscape.
- Community cultural norms, values, and beliefs, and their expression in the ways people work, play, relate to one another, organize to meet needs, and generally participate in society.
- Historic documents
- Historic properties, especially those that are eligible for inclusion on Manitoba Heritage Site list. This step is particularly important within traditional aboriginal land because, as of this year, only 6 of 108 sites that have been identified for special protection in Manitoba are aboriginal. In other words over 94% of heritage sites deemed worthy of special heritage recognition are European. The irony here is that aboriginal people have lived in Manitoba for about 6,500 years longer than Europeans, and can associate their occupation with perhaps hundreds, if not thousands of sites.

The kinds of studies that should be carried out include but are not limited to:

- Multidisciplinary background studies of local history, prehistory, geography, ecology ethnography, and culture in consultation with local stakeholders. This information is a basis for bringing forward predictions about cultural resources that may be present in the different areas of potential effect.
- Identification of cultural landscapes that are either built to reflect cultural norms or whose character reflects unplanned relationships between human culture and the biophysical environment.
- Archaeological surveys to identify prehistoric and historic archaeological sites in close collaboration with descendant communities.

- Traditional cultural property surveys to identify sites and locations that have religious, ceremonial or traditional cultural importance to the living community.
- Studies of impacts on living sociocultural systems and uses of the natural environment with a special focus on those impacting low-income minority communities.
- Surveys to identify and evaluate the conditions and treatment of historical documents and artifacts. The capacity and professionalism exhibited within local repositories of these items, whether they're museums, archaeological laboratories or library archive facilities, should be carefully inspected, evaluated and monitored by third party experts on an on-going basis.

Although some socio-economic impacts appear to have been addressed in a separate section of the EIS, there are aspects of these that are tightly interwoven with cultural factors and, therefore, should be repeated here or addressed in a coordinated manner.

It appears that only previously identified archaeological resources are addressed in each document. Interestingly, the literature reviews conducted are admittedly general and the author reports that the heritage resources described therein might or might not be present in the survey area. An apparent attempt to explain the reason for not being more specific data provided is discussed in the second paragraph of page 2 of the transmission project HREIS. This statement reads: "specific project characteristics and the application of Manitoba Hydro's Standard Environmental Protection Practices are mitigation for some of the potential environmental effects noted in the literature or that might have been identified in the supporting volumes in an unmitigated circumstance". Regardless of what this sentence means precisely, without a concise description of potential effects relative to the locations of the various resources, it simply isn't possible to design and implement a protection plan that can target the mitigation effort effectively.

The most glaring oversight of the Transmission Project report stems from the fact that there appears to have been no archival research, informant interviews or archaeological surveys done along the proposed transmission line route, between switching stations. As a result this report has no basis for impact assessment other than to predict what is imagined would happen along the path of the transmission lines.

After these studies are completed, the next step is determinations of significance. These decisions are based on multiple factors including potential for impact, significance to living cultures, scientific value, historical value and even culturally valued aesthetics -- all of these factors can and should be used for determining the significance of the broad range of resources that have been identified.

By appropriately responding to the simple question; what resources are significant to who and why – it becomes obvious that the research is incomplete if it hasn't been carried out in partnership with the descendant community(s).

This exercise appears not to have been done at all -- other than the report providing a list of mostly disturbed sites that are situated within or near the survey areas that will be impacted by a small segment of the area proposed for construction.

The next important step in completing a heritage resource impact assessment is determining precisely what type of anticipated effect there will be. Potential impacts can include one or more of the following:

- Physical damage caused through construction and/or land modification.
- Alteration of the visual environment where the environment has cultural value. For example, a culturally favored viewshed or an island that's traditionally used for navigation as well as a meeting place.
- Creating changes to the auditory environment where the absence of noise is culturally important such as placing a generator station or maintenance road near an indigenous sacred site.
- Introducing things into the natural environment that are incompatible with the resource's cultural value. Constructing transmission towers through a community-trapping district or an area traditionally used for harvesting fish or moose are prime examples.
- Neglect of a resource that an agency or official is responsible for protecting such as letting an archaeological site erode away or be vandalized.
- Transfer of property out of federal or provincial ownership or jurisdiction in such a way that damages to cultural resources can and does result.

Physical damage, (erosion and construction) appear to be the only effects that are addressed in these reports.

Once these steps are completed the research team must begin to generate, in close consultation with the stakeholders; mitigation measures that can include one or more of the following:

- Avoiding the impact altogether
- Minimizing the impact
- Rectifying the impacts
- Reducing or eliminating impacts over time
- Compensating for impacts

Here again, effective consultation with the local community is critically needed in order to arrive at a list of mitigation measures that satisfy each stakeholder's concern. This might require additional studies before final decisions are made. The important thing to remember is that consultation should begin at the earliest possible stage of project planning; it should remain flexible, inclusive and proactive.

For example, simply posting a notice about the impending destruction of a family's fish camp by flooding might not be read or understood by the relevant parties. The researcher should instead seek out who the owners of the fish camp are and initiate consultation with

the family well before the destruction occurs. The owners of the camp should be presented with a full range of mitigation options, and then they should be asked to choose which one meets their needs. This does not rule out the owner's rights to propose their own mitigation plan.

Certainly, the ultimate aim of mitigation is to arrive at a solution or course of action that is agreed to by all the parties involved. The ultimate means for effective mitigation is to seek, listen and understand. And it's of utmost importance in doing so to differentiate and respect the differences between indigenous knowledge and value systems versus those that are Eurocentric and even ethnocentric.

It appears that consultation with the indigenous and/or local community was not a significant part of either heritage resource impact assessment. Although the Generation Project report provides some references to culturally significant sites, the information provided is no more specific than to say that the source of the information was an "elder". Also, it wasn't made clear if this inquiry was part of a concerted effort (methodology) or if it was done informally through the course of the field survey. If the information was provided as the result of a formal regime of informant interviews, why then, wasn't it a part of the Transmission Project, as well? In either case, informant interviews should be included in the "references cited" section of the report, along with the date of the interview and some descriptive or qualifying information about the informant. For example, was the informant a band member who has lived in the region all their lives or where they living in another region of Canada and only recently moved to the survey area? Perhaps the most important question is asking if the informant is generally acknowledged by the community as being a cultural authority and/or spiritual leader?

Additionally, the Generation Project HREIS is replete with unsubstantiated conclusions and comments that are without reference to supporting data or documents. For example, commenting on the impact on the potential for heritage resources to be present at proposed borrow area's the author concludes: "Resource users during the Post-European Contact Era could have used this area to travel to areas of good hunting and trapping. Archaeological sites relating to these activities would not be horizontally or vertically extensive. Therefore, there is a low potential that these sites would be impacted (HREIS, 26: para. 6.6)". Not only is validity of this conclusion questionable because there's no supporting data provided and the reasoning and logic used to support the conclusion "no impact" is itself questionable.

Both reports seem to indicate that there was little or no consultation with the affected communities in regard to their preferred choices for mitigation. Once again, the only mitigation alternative presented is excavation or salvage archaeology, which in and of itself can result in an intrusive and destructive impact on the resources – especially when viewed from a descendant community's perspective.

The agreed upon mitigation measures should then be documented either in the form of memorandum of agreements (MOA's) or, as is more often the case, programmatic agreements (PA's). Whatever the format that's chosen, mitigation measures should be

documented and the governing authorities committed to carrying them out. Generating a precise mitigation plan with an implementation schedule can be used to facilitate these assurances. In addition, it's important that an outside source or third party monitor the progress and effectiveness of the mitigation. Where mitigation involves culturally significant properties, the indigenous or local community stakeholders should be hired and compensated to perform this function. In some cases, such as when on-going erosion impacts heritage resources, monitoring must be done for the entire life of the dam and generating plant.

There were no references made in these reports to any type of written mitigation agreements between Hydro and local communities or indigenous groups.

In conclusion, the Wuskwatim Generation and Transmission Project Heritage Resources Environmental Impact Statements appear to be critically incomplete. In particular, the resources inventory and mitigation measures recommended in each report are both insufficient and appear to have excluded almost entirely, large portions of the impacted environment. Also missing is broad representation and participation by the primary stakeholders of each of these projects – the aboriginal descendant communities throughout the region. As a result, these documents, the EIS process and any actions that derive from them are out of compliance with a myriad of international covenants, regulations, federal laws provincial acts, and professional archaeological guidelines and standards. Each is designed to protect the basic human rights, hence, heritage protection rights of all peoples.

Impact on Living Cultures and Heritage Resources:

Cultural heritage is the basic framework we use to identify and organize ourselves. It is the sum of our traditions as seen in our social, political, economic and religious institutions that provides us a roadmap for how we solve problems, get along with one another, how and to whom we worship, and what the important steps are in raising and educating our children. It's what anchors us to the landscape, guides our present as well as our future. It sets us apart, as the earth's most mutually dependent, social species.

Perhaps UNESCO's definition of culture is the most theoretically compelling and right-on, "all distinctive, spiritual, and material, intellectual, and emotional features which characterize a society or social group".

Without cultural heritage we would find ourselves born anew each day, without language, social skills, traditions or even the most basic tools needed to survive because of our dependence on each other. We would be without an historical memory, leaving us unable to define who we are in even the broadest of contexts. Therefore, we must be reminded that our humanity is not determined in the present or future, but rather we are largely a product of our cumulative past.

As such we tend to respond to rapid changes or disruptions in our traditions in much the same way and for the same reasons. A loss or partial destruction of a people's cultural heritage usually results in a loss of both a personal and group identity.

The results of which are aptly described in a working paper submitted to the World Commission on Dams in 2000. In it Steven Brandt and Fekri Hassan explain; "a loss of cultural heritage constitutes a destabilization and demoralization of members of living communities. It undermines their sense of security and integrity and engenders a sense of loss, bereavement, alienation, disorientation, bewilderment and perplexity that impairs their ability to function as fit healthy, effective human beings and citizens. The damage extends to the attenuation of the ability of a community to provide proper care and socialization of their children, with severe long-term consequences on future generations". It's not difficult to translate these words and ideas into social and mental health problems such as alcohol and other drug abuse, increases in juvenile crime, suicide, family dysfunction, higher rates of depression, teen and out of wedlock pregnancies, and greater infant mortality.

In response to the question of whether this or any of the previous Hydro projects adversely impact the cultural heritage of aboriginal communities – I defer once again to the poignant writings of Nelson House's Eva Linklater, "the archaeological community has been indifferent to First Nations world views and oral traditions as a complement for interpretation of the archaeological record". Aboriginal history is recorded in traditional landscapes and only through oral traditions can an archaeologist understand the past and the relationship of people to the land. Because of the integral relationship of land and history, First Nations cultures are always seriously impacted by large-scale resource development projects that destroy or alter traditional landscapes. These projects must become a holistic endeavor, integrating both tangible archaeological remains and Cree traditional history (1994: iii)". It's obvious from reading the Wuskwatim heritage resource impact assessment that nothing close to a holistic approach was carried out. Ms. Linklater goes on to point out in her thesis, "While this project (Churchill-Nelson River Diversion Archaeology Project) dealt with concerns for environment, economic, and archaeological impacts, it did not address the question of Cree heritage values, how they are superimposed on the landscape as named places, and the consequences of their loss due to inundation".

Turning now to the subject of loss of archaeological resources, on the basis of the field observations I've made at Sipiwesk Lake, and the written reports and statements I've read and received from the Manitoba archaeological community, there is now and will continue to be a massive loss and destruction of irreplaceable and non-renewable archaeological and environmental resources throughout the Burntwood River and Wuskwatim Lake area. Many, if not all of these losses will go unmitigated aside from efforts to surface collect artifacts from sites already destroyed by erosion or bulldozing.

This loss will be lamented, perhaps even mourned by the world's archaeological community for many generations to come. And it's likely that the government of Manitoba, its Hydro licensing body and Manitoba Hydro in particular will be forever

damned by scientists and human rights advocates throughout the world because of these unnecessary and largely unmitigated impact to the cultural and heritage resources.

Professional Opinions and Evaluations on Other Hydro Sponsored Archaeology Projects:

Having read a number of documents relating to previous Hydro assessment projects that have either been completed or monitored by the Provincial Archaeological Section, there appears to be consistencies as to how each project has been carried out. It follows that there is also a great deal of similarity in the results, as well.

Some of the major problems listed in a contributing paper written by Luke Hertlein for the World Commission on Dams in 2000 -- on the Lake Winnipeg Regulation Churchill-Nelson River Diversion Project, are strikingly similar to those this author concluded about the Wuskwatim Project assessment:

- Human rights and aboriginal and treaty rights have not been considered as part of the assessment process.
- Informed consultation and consent were all but missing as part of the process.
- There was little, if any aboriginal traditional cultural concerns considered.
- Because of the inadequacy of the pre-assessment environmental studies only minimal baseline data was generated and latter considered as part of the assessment.

Once again, the compelling words and thoughts of Eva Marie Linklater, archaeologist and member of Nelson House seem to support Hertlein's conclusion when she asserts "only limited survey coverage of the region was attained, very few analysis were ever completed, and the production of meaningful reports and publications was dismal relative to the amount of money that was spent. Equally important, prehistory was treated as a subject divorced from a human host and certainly not as an extension of the Cree (1994: 72).

In this presenter's opinion the likeness between these researchers comments about the Diversion Project the observation in this testimony about Wuskwatim is more than a coincidence. Instead, they show a pattern that ranges from sheer incompetence to what appears to be intentionally "nibbling around the edges" of what is legally, professionally and ethically called for in a professionally done heritage resource survey and impact assessment.

Technical and Systemic Issues:

There doesn't appear to be a comprehensive set of standards and guidelines for conducting public archaeology or heritage resources impact assessments in Manitoba, Canada.

Public archaeology in Manitoba is arguably under monitored and under evaluated other than by those whom actually plan and do portions of or all of the work. Normally, the

function of an Archaeological Assessment Office is to insure that agencies, crown corporations, and contract archaeologists maintain compliance with existing heritage resource laws and regulations. For the Archaeology Assessment Office to actually perform the work for a client might result in a conflict of interest. Additionally, by having the Archaeological Assessment Services Office depend on the client, such as Hydro, for significant amounts of funding – versus strictly overseeing compliance matters -- dirties the water even more. In summary, there should be some form of compliance oversight that remains totally separate and independent from the ongoing interests of Manitoba Hydro.

Judging from the content of these reports and some other observations, some of the staff of the Archaeology Assessment Services Office might not be qualified to perform the work they are assigned, therefore, may be in need up intensive training. Related to this topic, there doesn't appear to be professional standards or a system for evaluating and either disciplining or rewarding employee work performance.

The hiring of staff in the Archaeological Assessment Services Office appears to be by appointment rather than through a competitive recruiting, screening, and hiring process. This prevents the citizens of Manitoba from knowing if they have hired a civil servant whom is the most qualified and deserving of the position. This can have a tendency to maintain the status quo, which can lead to few if any changes in the way the agency carries out its mission.

At least one management level employee of the Manitoba Culture, Heritage and Tourism Office reports that institutionalized racism could be the reason why only 6 aboriginal sites of a total of 108 total have been selected for Heritage Site protection status. Interestingly, the only time aboriginal sites were even selected was during the 1950's and 1980's.

Some of Manitoba's university faculty and academic staff is seemingly separate, if not indifferent to the struggle to protect the heritage resources in Northern Manitoba. A reason might be that some among them have benefited professionally and financially by contracting with Hydro to perform work that is in some way associated with the impact assessment studies. To open the system up to other qualified private consulting firms it might be worth investigating if whether university-connected contractors have utilized publicly paid for property, student work time or other university staff paid work time as part of their private consulting work.

Overall, this problem has been perhaps best described in a paper written by archaeologist Peter Schmidt for the World Commission on Dams; "Of significant concern is that archaeologist's are rarely on the front lines to help mitigate and stop such state abuses of cultural rights. In fact archaeologists may be contributing to such abuses by their silence" (Dams and Cultural Heritage Management, Final Report, 2000)

The technology used for survey work by the Province appears to be a decade or more behind from what is now considered standard archaeological methods and procedures.

The use of remote sensing, computer generated database management systems, and ground-positioning systems (GPS.) are just three examples of what's missing.

The Manitoba Provincial Government does not appear to address environmental justice issues as expected. Specifically, low-income minority groups are forced to make inordinate sacrifices for public works projects when compared to higher income non-minorities. As noted by Kris Kristjanson, the one time Assistant General Manager of Manitoba once said in reference to early plans for the Diversion project, "the people of South Indian Lake would be making a sacrifice for the rest of the people of Manitoba". The only question that remains to be answered if the people of South Indian Lake feel that have been justly compensated for making that sacrifice – an issue that seems to "dog" most of the projects carried out by Manitoba Hydro.

Indigenous peoples with reserve membership that continue to practice and believe in traditional life ways and belief systems appear to be categorically underrepresented in employment or participation in year around heritage preservation activities. And based on my observations they have almost no input into policy making.

The Policy Concerning the Reporting, Exhumation and Reburial of Found Human Remains is not consistent with an array of professional and ethical standards including the Manitoba Cemetery Act, United Nations Covenants on Indigenous Heritage Rights or the Canadian Archaeological Association Statement of Principals for Ethical Conduct Pertaining to Aboriginal People.

In a book titled First Nations and Hydroelectric Development in Northern Manitoba, one of the contributors reported that they used original and replicated artifacts taken from burials for educational displays. In some indigenous communities, the act of excavating a burial for any reason other than protecting it from eminent destruction is highly inappropriate. And to display funerary objects belonging to the deceased or even copies of them is sometimes considered repugnant. It wasn't stated if this project involved the informed participation of one or more recognized traditional cultural authorities and/or spiritual leaders.

It was reported that the Archaeology Lab at the Manitoba Museum is are significantly behind in cleaning, cataloging, analyzing and preparing artifacts for permanent or temporary collections. If this is indeed the case, not all collections taken from sites associated with the Wuskwatim project have been reported on – leaving still another serious gap in the information that's needed before a heritage resource impact study is considered legally and professionally sufficient.

Summary and Recommendation

This presenters' unbridled opinion is that based on the quality and results of the documents reviewed, there are omissions of critically important information that might have led to biased or erroneous conclusions about the magnitude and extent of adverse impact(s) that these projects will have on the heritage resources of indigenous communities. Therefore, it is recommended that qualified professionals undertake additional studies before permits and licensing for this project is issued.

In all fairness to those who had a hand in preparing these documents, I sincerely apologize if any part of my critique was unfair because of the limited time, as well as the amount of information I had access to.