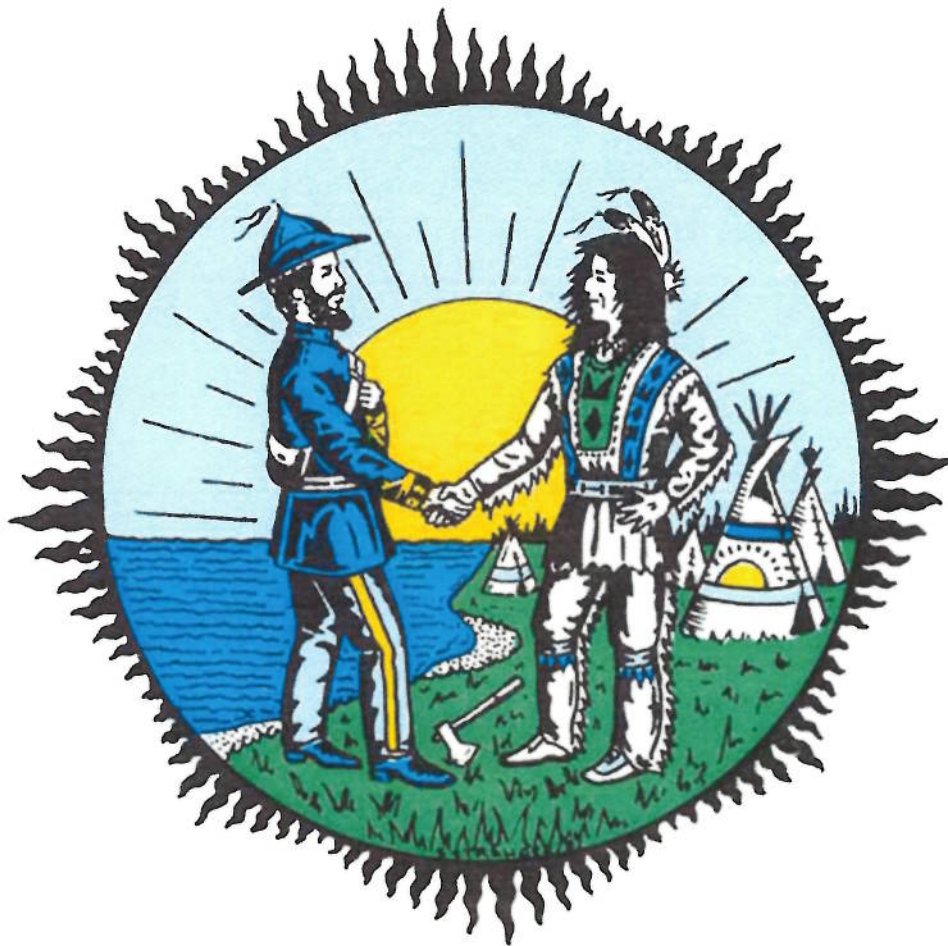


Before the  
Manitoba Clean Environment Commission

IN THE MATTER OF  
**The Wuskwatim Generation and Transmission Projects**

Submission of  
Grand Chief Dr. Sydney Garrioch  
**MANITOBA KEEWATINOOK ININEW OKIMOWIN**  
May 27, 2004

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The Manitoba Keewatinook Ininew Okimowin represents the 53,000 Treaty First Nations citizens of the thirty northern-most Manitoba First Nations. The Nisichawayasihk Cree Nation and the northern Manitoba First Nations who have appeared before this Commission are affiliated with MKO.

The combined homelands and traditional territories of the MKO First Nations cover almost three quarters of the lands and waters of the province of Manitoba and encompass all of the area most directly affected by the proposals for the Wuskwatim Generation and Transmission Projects.

The MKO First Nations entered into Treaty Number Four in 1874, Treaty Number 5 between 1875 and 1910, Treaty Number 6 in 1876 and Treaty Number 10 between 1906 and 1908. Our leaders, as representatives of our Sovereign Nations, participated in the Treaty negotiations with Her Majesty the Queen based on the recognition of our status as sovereign Nations and as the holders of Aboriginal title to our ancestral lands.

Our relationship with our ancestral lands is reflected in our languages, cultures, traditions and practices. By entering into Treaties, our forefathers intended to provide for continuing access to the resources of our traditional territories in order to provide for our continuing self-sufficiency. The written record confirms that our leaders would only enter into Treaty when these objectives were confirmed by the promises of the Treaty Commissioners. Our oral histories say that the Treaties provide for the sharing of our lands, waters and resources between the First Nations and the settlers entering our lands.

Today, the MKO organization is represented by the Treaty medal provided by her Majesty's Treaty Commissioners as a symbol of the sacred relationship that persists between our Nations and Her Majesty. The Treaty Medal clearly shows a Treaty Commissioner entering into First Nation Lands - as a guest - to negotiate and enter into Treaty, to meet with and make an agreement with our leaders, as representatives of the indigenous governments. The Treaty medal represents our joint commitment to nation-building with the objectives of sharing, peace and goodwill and a relationship founded on principles of mutual faith, recognition, honour and respect.

The land, waters and natural resources of northern Manitoba represent the foundation of the First Nations economy: through fishing, trapping, hunting, the harvesting of wild rice and other plants and berries, as well as agriculture, timber harvesting and tourism. These same lands and resources within the MKO region are also the foundation of much of the wealth of Manitoba, as represented by the mining, logging and hydropower development that has taken place over the past seventy years.

The MKO First Nations say that the transfer of Treaty lands, waters and natural resources from Her Majesty to Manitoba by the *Manitoba Natural Resources Transfer Act, 1930* is contrary to the spirit, intent and terms of Treaties 4, 5, 6 and 10.

The MKO First Nations also say that the past developments often proceeded without our consent and that our citizens were all too often systematically excluded from training, employment and contracting opportunities, as well as from any meaningful share of the wealth generated by these developments.

Our close ties to our traditional lands and waters and the economic significance of the hydroelectric and transmission developments in northern Manitoba have linked together the futures of the MKO First Nations, the province of Manitoba and Manitoba Hydro:

- ▶ All of the existing major hydroelectric stations and most of the major transmission systems of Manitoba Hydro are within the MKO region.
- ▶ The operations of Manitoba Hydro affect almost every major watershed in the MKO region: the Saskatchewan River including the Saskatchewan River delta, the Loon River-Laurie River system; the Churchill River including Southern Indian Lake; the Rat and Burntwood Rivers; the Nelson River, and; Lake Winnipeg.
- ▶ The facilities and operations of Manitoba Hydro affect the rights, interests, communities and lands of the MKO First Nations and have resulted in widespread and sometimes irreversible environmental, social and economic effects to waters, shorelines, fisheries, wildlife, livelihoods and community well-being.
- ▶ Several of the affected MKO First Nations and their fishers have entered into settlement, compensation and implementation agreements with Manitoba Hydro and Manitoba. Some of these arrangements include Canada as a party.
- ▶ Some MKO First Nations and their resource harvesters have yet to conclude any settlement arrangement to address and reconcile hydro development impacts. These include the Fox Lake Cree Nation, the Mathias Colomb Cree Nation and the Granville Lake First Nation. Others, such as the Barren Lands First Nation, the Mathias Colomb Cree Nation and their fishers, have been impacted more than 60 years by developments in Saskatchewan that regulate the flow of the Churchill River into Southern Indian Lake.

MKO participated in the 1984 National Energy Board hearings regarding the Limestone Project and before the joint federal-provincial panel considering the formerly-proposed Conawapa development. The following principles summarize MKO's conditional support-in-principle as presented in those proceedings and would also apply to future developments:

- ▶ *MKO recognizes the sovereign right of each MKO First Nation to determine their own future and to make decisions regarding their traditional lands.*
- ▶ *MKO will seek to ensure a high standard of protection of the Aboriginal and Treaty rights of MKO Citizens, including application of the "Section 35 process", the implementation of agreements and the resolution of outstanding claims.*
- ▶ *MKO seeks to ensure high standards for environmental review, environmental assessment and the mitigation of project impacts.*
- ▶ *MKO will seek to ensure a high standard of socio-economic benefits and resource equity for MKO Citizens.*

In terms of the proposals for the Wuskwatim Hydroelectric and Transmission Projects, MKO is monitoring these proceedings and maintains a Public Registry on the project proposals for the benefit of our citizens. MKO has also discussed these proposals.

It is MKO's understanding that the citizens of NCN will have a further opportunity to express their vision for the future of their community and their opinion of the final project and business arrangements in a democratic referendum and community ratification process. It is also MKO's understanding that NCN citizens will be able to consider the information presented in these proceedings in arriving at their decision.

Based on the principles I have discussed, MKO supports the Nisichawayasihk Cree Nation in their decision regarding the Wuskwatim Hydroelectric and Transmission Projects.

MKO appreciates NCN's interest in securing an equity interest in any future hydroelectric developments on the developed waterway within the NCN resource area as part of their long-term economic strategy, particularly in light of the adverse environmental effects arising from the existing Churchill River Diversion Project.

MKO also appreciates NCN's interest in minimizing future adverse environmental effects by working to influence the size of all future developments along the developed waterway between Notigi and Manasan. For example, NCN's insistence on a low-head Wuskwatim development at Taskinigup Falls will effectively set aside earlier plans by Manitoba Hydro for a higher elevation development that would have affected the waterways, lands and environment upstream between the Wuskwatim project site and Early Morning Rapids, including Wuskwatim Lake.

- MKO also acknowledges NCN's efforts to incorporate traditional knowledge and to ensure the involvement of NCN citizens in project planning and in the assessment of potential adverse environmental effects.

In respect of the protection of the Aboriginal and Treaty rights of the MKO citizens, in order for this Commission to uphold the honour of the Crown in their role as advisors to government, MKO recommends that the following basic tests and measurements be applied by this Commission in its examination of the proposed Wuskwatim Generation and Transmission Projects:

- ✓ *Do the Wuskwatim project proposals reflect and preserve the spirit, intent and letter of the commitments made by the Treaty signatories in respect of lands, waters and natural resources?*
- ✓ *Will authorization by government of any aspects of the Wuskwatim project proposals result in an infringement of the exercise of the Aboriginal and Treaty rights of MKO citizens?*
- ✓ *If the Commission determines that an infringement of the exercise of Aboriginal and Treaty rights will occur as a result of the Wuskwatim project proposals, has Government justified the infringement?*
- ✓ *If the Commission determines that government has justified an infringement of the exercise of a right and that the nature of the infringement amounts to an expropriation of the right, is compensation available?*

MKO also requests that this Commission make the following recommendation:

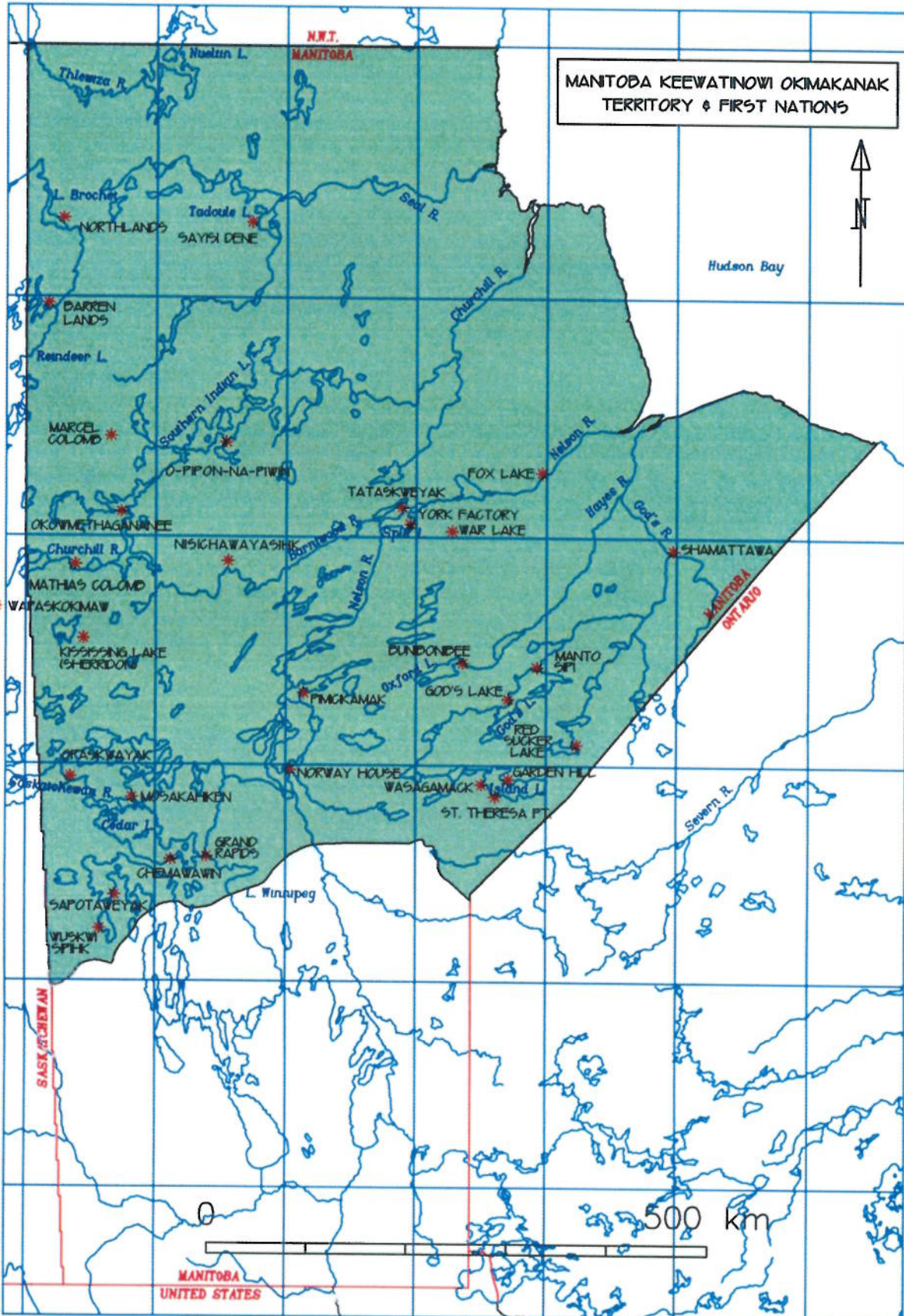
- ✓ *That a process be established by Manitoba and Canada in order to address and resolve all unresolved matters related to existing hydroelectric and transmission developments in northern Manitoba.*

The Aboriginal title of the MKO First Nations and the terms of Treaty provide the foundation for our participation and influence in the natural resources economy of northern Manitoba. Our joint commitment to nation-building is not frozen at one moment in history, but must be understood in its contemporary form as events take place and as our respective Nations grow.

Ultimately, the difference between poverty and prosperity will be determined by the extent to which the exercise of the Aboriginal and Treaty rights of the MKO First Nations are protected from infringement and the extent to which the MKO First Nations directly control, participate in, and benefit from, all resource developments within our traditional lands.

Ekosi.

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