

2014 12 30

Mr. Terry Sargeant, Chair
Manitoba Clean Environment Commission
305 - 155 Carlton Ave.
Winnipeg MB R3C 3H8

Dear Mr. Sargeant:

LAKE WINNIPEG REGULATION –AGREEMENTS

This is in response to your letter of October 31, 2014 requesting additional information from Manitoba Hydro for the LWR CEC process.

Of the agreements specifically requested, the following agreements are on Manitoba Hydro's website:

- The Northern Flood Agreement (NFA)
- Split Lake First Nation Comprehensive Implementation Agreements (CIA)
- York Factory First Nation CIA
- Nelson House First Nation CIA
- Norway House Cree Nation CIA
- Cross Lake Community Council Agreement

Additionally, agreements with the following communities are on our website:

- Fox Lake First Nation
- Nelson House Community Council
- War Lake First Nation

All of these agreements can be found by going to the following link:
(www.hydro.mb.ca/community/aboriginal_relations/aboriginal_agreements.shtml).

The Norway House Community Council Agreement has not yet been finalized and is not available.

Regarding the request for all Adverse Effects Agreements, Manitoba Hydro has reached over 50 of these type of agreements with First Nations, communities, resource user groups and individuals addressing LWR and other hydro-electric development issues throughout the LWR downstream area. These agreements are not publically available and Manitoba Hydro does not have the consent of the other parties to provide these agreements. This includes the agreement with the Wabowden Community Council.

In addition to the NFA, CIAs and other comprehensive settlement agreements with First Nations and Community Councils as noted above, Manitoba Hydro has entered into a number of other long-term settlements with First Nations, Community Councils, resource harvesters, resource harvesting groups, associations and individuals in the region. This includes commercial trappers, commercial fishers, domestic fishers, sturgeon fishers associations, dog mushers and with First Nations for issues related to community trap-lines, the provision of firewood and addressing recent water regime issues (re-determined compensation agreements). These settlements are generally related to a specific impact or loss or losses and impacts on a specific activity. They are not usually as broadly based as adverse effects agreements and they often arise out of a specific grievance or claim.

Generally, the agreements address impacts of Manitoba Hydro's projects or operations on the First Nation or Aboriginal group and their members. Effects can be addressed through remedial works, mitigation programs, in-kind compensation and monetary compensation. Adverse effects agreements can address impacts from existing facilities and operations as well as anticipated impacts from future developments. Agreements can also contain process commitments, opportunities for benefits and can be time limited. In certain cases, there can be multiple agreements with one party. Many agreements also include government parties. There can also be process cost agreements to cover the costs of consultants and lawyers assisting the Aboriginal group with its negotiations with Manitoba Hydro.

The LWR Project was constructed using contemporary practices of the day. These practices involved substantially less advanced environmental assessment and consultation activities than what is considered acceptable and standard today. As a result, environmental effects were not always fully understood and related measures to address project impacts were not always identified and implemented in advance of project construction. However, the NFA created a process that addressed ongoing mitigation and compensation for adverse effects of hydro-electric development in the five NFA communities and in the late 1970s Manitoba Hydro established programs to address project impacts through avoidance of adverse effects, remedial works, offsetting programs, and residual monetary compensation. A complete list of mitigation measures that have been implemented and/or planned throughout the regions of interest would be very extensive, with many measures specific to the local context of each community. However, the LWR submission summarizes the range of programs implemented to address adverse effects in the LWR downstream area, as a whole.

Following the signing of the NFA in 1977, Manitoba Hydro recognized the need for a dedicated resource to deal with mitigation measures. The Mitigation Department was established in 1981, which included an office location in Thompson with staff familiar with the communities and their issues, to address concerns of the NFA First Nations and other communities. By the late 1980s, the foundation had been set for addressing project impacts, resolving issues and mitigating adverse effects. Since then, Manitoba Hydro's relationships with northern Aboriginal communities have continued to evolve, and the various mitigation measures that have been undertaken pursuant to the NFA have broadened. Current impact management activity evolved from the experience of planning and development of LWR and the Churchill River Diversion Project.

Regarding your request on the NFA Implementation Action Plan Process with the Cross Lake First Nation (CLFN), in 1997 the leadership of the CLFN notified Canada, Manitoba and Manitoba Hydro of their decision to abandon negotiations for a CIA and to proceed with implementation of the specific terms of the NFA. Subsequent to that decision, Manitoba Hydro continued to work with all three parties (Canada, Manitoba and Cross Lake First Nation) to meet obligations under the NFA. From May 1998 to October 2002, funding was provided for CLFN's lawyers, consultants and community members to participate in processes to attempt to implement the specific terms of the NFA. This included an obligation based, proposal driven approach.

Starting in late 2002 and in an attempt to further accelerate implementation activities under the NFA, the first Cross Lake Action Plan, was developed and agreed upon between Manitoba Hydro, Manitoba and the CLFN and put in place for a 15 month period. The 15 Month Action Plan, as it was known, identified NFA obligations of Manitoba and Manitoba Hydro and set out a number of programs and activities for remedying, mitigating and/or compensating for the adverse effects of LWR on CLFN and its members. Since that time, there has been a continuation of action plans, generally on an annual basis to address NFA obligations and issues. This included for a time the establishment of a local implementation committee to implement the Northern Flood Agreement on a non-adversarial basis. Some of the activities/programs undertaken at Cross Lake for which funding was provided by Manitoba and/or Manitoba Hydro, have included:

- a) Contracts issued to the local Cross Lake contractor, Mid-North Development Corporation to undertake certain debris cleanup and other work in the vicinity of Cross Lake;
- b) Construction of playgrounds and rinks on the Reserve by members of the CLFN;
- c) Funding towards the improvement of local recreational facilities;
- d) Domestic Fishing & Alternate Foods Program, which assists Cross Lake fishermen in pursuing traditional fishing activities and annually provides more than a hundred thousand pounds of free fish to community members. This Program also includes a gardening program and a hot lunch program for the schools;
- e) Elders Fuelwood Program, resulting in the construction and maintenance of access roads to fuelwood gathering areas. Approximately 10 km to 20 km of access roads are built and maintained. First Nation contractors are retained for construction and maintenance of these roads;
- f) Mitigation and/or remedial works such as construction and maintenance of new docks, road upgrading and housing relocation within the easement area, cemetery slope protection within the community and at Cross Portage, Sand Bay beach upgrading and development of a new beach within the community;
- g) Contribution towards a new bridge within the community to replace the ferry and the

winter ice crossing;

- h) Various programs for commercial and domestic trappers and fishers including compensation for lost production, increased costs, and incentives to encourage trapping and fishing efforts;
- i) Construction of hundreds of miles of new trails and cabins for improved travel, communication and safety;
- j) Safe ice trail programs, navigation buoy program and safe portage program;
- k) Restoration of areas in Jenpeg Forebay area for purposes of carrying on traditional pursuits;
- l) Subsidy programs, such as the Grubstake Fund, Annual Income Subsidy and Support Payment, Trapline Rehabilitation and Improvement Payment;
- m) In addition to normal debris programming, additional debris management in the Jenpeg Forebay, Cross Lake and Sipiwesk Lake. The program has employed a number of Cross Lake residents on a seasonal basis;
- n) Construction and maintenance of three boat launch facilities, the Natimek Boat Launch; Footbridge Boat Launch; and Water Treatment Plant Boat Launch;
- o) Other various access and navigation programs, including a combination of measures and programs designed to mitigate adverse effects of the Lake Winnipeg Regulation Project on travel in the Cross Lake resource area.

Recently, in response to community concerns regarding NFA implementation and related relationship issues, a formal process agreement was signed between the Province of Manitoba, Manitoba Hydro and CLFN/Pimicikamak Okimawin, which sets out an engagement process and guiding principles for discussions on the continued implementation of the NFA at Cross Lake. The agreement also includes a proposed timetable and a commitment to a reasonable funding process.

If you have any further questions please call me at 204-360-3018.

Yours truly,



W.V. Penner, P. Eng.

Manager

Hydraulic Operations Department