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December 20, 2013

Shawna Pachal
Division Manager
Power Projects Development
P.O. Box 815, Stn. Main
Winnipeg, MB R3C 2P4

Dear Ms. Pachal:

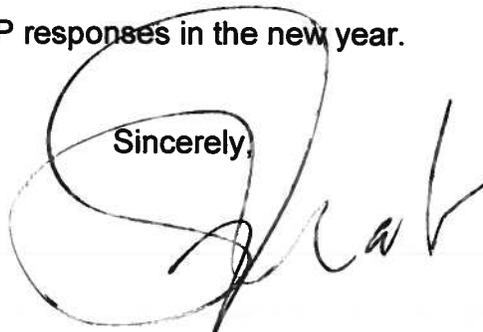
The Clean Environment Commission Keeyask Generation Project Panel has a number of questions to ask the Partnership to help them fully understand the project and to assist them in providing advice to the minister.

Attached is an itemized list of these questions. Some are fairly involved, while others are more straightforward. We are asking that all questions be answered in writing by January 3, 2014. The Panel would then be prepared to follow-up orally, as needed, when we reconvene on January 6, 2014.

It is at your discretion as to who will be made available to respond to the Panel at the hearing.

Thank you and we look forward to KHLF responses in the new year.

Sincerely,



Terry Sargeant
Chair

Enclosure

KEYYASK – END OF HEARING QUESTIONS

GENERAL

Cover Letter

- 1) In the covering letter dated 2012 07 06, which accompanied the filing of the EIS for the Project, it is stated, in part, "Finally, we note that the Manitoba Statute makes no reference to determinations of the significance of an adverse effect and accordingly, we will make no such determinations; ..."
 - This seems to be contrary to normal practice, as well as ignoring the requirements of the Principles of Sustainable Development (*The Sustainable Development Act*, Schedule A).
 - Please explain the meaning of this letter, and confirm that the Partnership agrees that the determination of significant adverse effects is a relevant factor in the CEC's review of the Project and is clearly within the Commission's jurisdiction to do so.

Regional Cumulative Effects

- 2) In its report on the Bipole III Project, the Commission recommended that a regional cumulative effects assessment should be conducted in the Nelson River sub-watershed before any further licences are issued for hydro development. The Minister of Conservation and Water Stewardship in a letter dated August 14, 2013, agreed with that recommendation. In paragraph 17 of the Proponent's Reply to a motion filed September 9, 2013 by Peguis First Nation, it is stated: "Manitoba Hydro has already engaged with Manitoba to begin implementation of a regional cumulative effects assessment."
 - Please provide a status report on the progress of this assessment, together with an anticipated completion date.

Manitoba Hydro System

- 3) The Partnership and Manitoba Hydro have consistently stated that Keeyask is part of the Manitoba Hydro system. Please describe more fully what the Manitoba Hydro system is and what being "part of the Manitoba Hydro system" means for Keeyask. What influences how it is managed?

Racism

- 4) The Panel have heard testimony from a number of participants attesting to racism in Manitoba Hydro workplaces. Please provide detail as to what Manitoba Hydro is doing to address racism and overall Aboriginal cultural awareness within the company and to ensure its contractors are in compliance?

Keeyask Partnership

- 5) Please provide an organizational chart showing the governance structure of the Partnership. Include a description of the various boards, committees and advisory panels providing their composition, mandate and function.

RESOURCE USE

Off-Setting Programs

- 6) How do the KCNs plan to harvest most of the fish in the offsetting lakes – via floatplanes or trails?
- 7) The Consumers Association of Canada raised the points that the human health risk assessment and mercury exposure to fish in Gull and Stephens Lakes may be overly cautious. Do the Keeyask Cree Nations think their members will consider eating fish in these lakes? What influenced the differing conclusions?
- 8) Is there a sunset date on when the Adverse Effects Agreements expire? For example, once mercury levels in fish have returned to background levels?
- 9) The Panel heard testimony that the Fox Lake Adverse Effects Agreement includes provisions for an Alternative Resource Use Plan to provide opportunities for local harvesters, whose “resource use area” had experienced adverse effects due to the Keeyask Project. The cost for the ARUP amounts to \$100,000 per year but only runs for three years. The program will ostensibly end after three years, although mercury levels in wildlife that will require the implementation of the ARUP are expected to peak in the first 10 years. Can the Partnership provide a response to this statement? How will the alternate use plan be managed?
- 10) More generally on the question of offsetting programs in the AEAs, it has been suggested that hunting and gathering areas are often traditionally used by specific families. Programs that facilitate resource users to harvest in alternative locations may then lead to conflict between new users and the users who have been harvesting in a particular location. What steps will be taken to prevent conflict and/or overharvest in such situations?

Trapping

- 11) In a presentation, the Partnership stated that the trapline compensation program differs from that used for Bipole III. Please describe the elements of the trapline/traditional area compensation program, and how it is applied for the Keeyask Generation Project.

- The Panel heard testimony that the trapline of Noah Massan will be significantly affected – perhaps, rendered useless. Can the Partnership comment on whether in its opinion this trapline will be rendered unusable by the Project? If so, what type of compensation – or alternatives – has he been offered?

AEA – Shamattawa Questions

- 12) Will any of the Offsetting Areas or Lakes be in trapline areas assigned to members of the Shamattawa First Nation? If so, will Shamattawa be involved in setting the conditions in the AEA and in management of the resources? How have they been consulted and/or involved? How, specifically?

ENVIRONMENTAL EFFECTS

Terrestrial

- 13) The EIS predicts the displacement of 45,000 songbirds (TE SV pp. 6-88) via nest destruction or "incidental take". This is the result of forest clearing and grubbing. Clearing outside the main breeding season is proposed as mitigation "where practicable"; however, this is not defined. Please elaborate.
- 14) What mitigation measures does the Partnership propose to reduce bird-strike on the transmission lines across the Nelson River?
- 15) Will the Partnership be developing a specific plan which will address how and where blasting is to occur during the caribou calving season? If so, please provide details of the plan even if they are preliminary at this time.

Aquatic - Impingement/Entrainment of Fish

- 16) In the event that impingement on trash racks or injuries caused by passing through the turbines are determined to be harmful to fish populations (especially sturgeon), what could feasibly be added to an already built Keeyask generating station?

Water Quality

- 17) With the increase in nutrients entering Lake Winnipeg and eventually the Nelson River, with the number of reservoirs and the slowing of the river flow due to hydroelectric generating facilities, what level and trend in eutrophication has been observed historically, currently and what can be expected at Keeyask? What is projected with climate change? Both in the short and long-term?

System Operation, Hydrology and Erosion

- 18) Is there extra water storage required on Lake Winnipeg or at Kelsey to facilitate the operation of the Keeyask Project?

Ice Regime

- 19) How will the Partnership communicate the changed ice regime associated with the completed Project?

Cumulative Effects

- 20) The Partnership has stated that the regional area is a highly disturbed environment due to hydroelectric related projects. Many issues with past disturbance have been raised by Participants and the KCNs. Many mitigation actions have been put forward regarding Keeyask.

- What has/ is being done to address past disturbance on the environment and negative impacts from past projects?
- What mitigative and rehabilitative actions have been taken to address past environmental impacts?
- Have the results been monitored?
- Has adaptive management been used?

- 21) CEC Rd 2 CEC-0102C requested the Partnership to provide estimates of the cumulative impacts due to past, current and future projects/activities on VECs based on the following formula:

$$\frac{\text{Current Available VEC Habitat}}{\text{Current Total Terrestrial Habitat}} \times \text{Pre-Development Total Terrestrial Habitat} = \text{Pre-Development VEC Habitat}$$

Based on this formula, the Partnership determined the following cumulative habitat losses for VECs due to past, current and future projects/activities:

- Olive-sided Flycatcher: 20.2%
- Rusty Blackbird: 17.7%
- Common Nighthawk: 24.6%
- Beaver: 20.6%

These cumulative effects are above the high magnitude of effects criterion of greater than 10% used by the Partnership.

- What do these numbers reflect at the regional scale?
- Do these results alter proposed development or mitigation actions?
- What do these results tell us about the future of the area and expected impacts?
- What impact may these results have on future projects?

SOCIO-ECONOMIC EFFECTS

Social Impacts

- 22) The Panel heard testimony expressing concerns with respect to the protection of First Nations' women. Can the Partnership outline the variety of mitigation measures it is proposing to be in place to protect First Nations' women? If the mitigation measures don't work, how would the Partnership address this?

Human Health

- 23) The First Nations traditional "country food" includes such items as several kinds of fish, moose, caribou, ducks, gull eggs, plants and water; i.e., a diet of foods which may contain mercury. It is possible that a regular weekly/monthly diet includes a combination of such foods. Mitigation measures identified by the Partnership specific to fish include: monitoring mercury levels, providing an advisory on safe levels of consumption for fish, and identifying alternative areas for fishing. Mitigation measures are specific to a particular VEC. A "diet of country food" is not identified as a VEC. Did the human health risk assessment consider the varied components of country foods in the diet and the cumulative mercury levels? Please explain how the advisories will be derived considering a varied diet.

Housing

- 24) The suggestion has been made that camp housing could be repurposed after the Project to address shortages of housing on the KCNs. Is this feasible? Would such housing be suitable? Would it be economically feasible to make such housing available for moving to the KCNs?
- 25) The Panel heard that Thompson has a zero per cent vacancy rate for rental housing. We have also heard concern that some workers may look for rental housing in Thompson for their off days. In light of these concerns, please explain why the Partnership believes the Project will not have a significant effect on housing in Thompson.

On-Site support

- 26) KHLP has stated that FLCN and WLFN will be offering on-site social support services for aboriginal workers. Specifically, what type of support services will be offered?

Employment

- 27) Section 12.6.3 in the JKDA seems to suggest that a single day's work could count as one person-month of employment and 12 months with a single day's

work in them could count as one person-year. (“each Member employed in any such job for one day or more but thirty days or less in each consecutive 30 day period will be considered to have been employed for a month” ... “One person-year of employment shall be calculated as any twelve individual months of employment in accordance with clauses 12.6.3 b and c” p. 109 of the JKDA).

- Is this reading correct?

28) Section 12.6.3 of the JKDA states that employment of Members in jobs related to the Project commencing after the date of the JKDA will be counted as employment on the Project. Presumably, then, KCN members who have worked on development of the EIS and the KCN assessments, consultations and these hearings would count toward the target of 630 person years.

- Is this correct? If so, can you estimate how many person-years have already been worked since the signing of the JKDA?

Training

29) Concerns have been raised that much of the Aboriginal employment on the Project will be at lower pay and skill levels. There has been some description of training programs for workers in skilled trades.

- Could you describe training and employment programs designed to increase the number of Aboriginal employees in managerial positions?

30) Please clarify the reference to the HNTEI made in the Socio Economic Supporting Volume (3.3.1.1.) and the reference made to a \$62 million training initiative in the JKDA.

- Are these initiatives the same?
- If so, in the JKDA the parties were agreeing to a program that was almost finished at the time of the signing. Is this correct?

31) The Panel heard that in citing the number of participants in the HNTEI, the Partnership has used a number that refers to every participant who has successfully completed at least one course.

- Can you please provide some specifics about what type of training was offered, specifically for what trades, occupations, etc.?
- Can you advise as to how many participants completed enough training to become eligible to qualify for good jobs at Keeyask?

32) Why was the HNTEI training ended?

33) Can the training provided under the HNTEI be compared to the Limestone model, where Aboriginal people were trained in everything from bus driving to engineering technology to professional engineering as well as many trades?

- Can you advise as to the success of the Limestone training program?

ENVIRONMENTAL PROTECTION & MONITORING

Environmental Protection Plan

33) Could the Partnership provide an overview of the management structure and process for the Environmental Protection Plan (EPP) monitoring programs?

34) Who is responsible for making day to day decisions regarding changes to the Environmental EPP monitoring programs and what is the process and timelines for reporting these changes to the Partnership?

35) Will the Site Environmental Officer, referred to in the GS Construction Environmental PP have the authority to halt an operation or procedure?

36) If heritage resources or human remains are discovered during construction how is the incident handled?

37) Does the Project Archaeologist referred to in the GS Construction Environmental PP have the authority to halt an operation or procedure?

38) Is there a process in place whereby artifacts, heritage resources or human remains discovered during the archaeological assessment process (or during construction activities) can be returned to the KCNs?

39) Is there or will there be a similar agreement as was negotiated with NCN on the Wuskwatim project (see exhibits KK 013,014, 015, 016)?

40) How are differences and uncertainty between the ATK EPP monitoring and western science EPP monitoring addressed? Please describe the process for how these will be resolved?

41) Have specific benchmarks and thresholds been established for the various components of the EPP monitoring programs?

42) Who will be responsible for determining when mitigation measures should be applied and how will this be reported?

43) Will a monitoring program be established for mitigation measures and at what point will Adaptive Management (AM) be considered?

- 44) When Adaptive Management is implemented how will it be monitored and reported?
- 45) Appendix C of the GS Construction Environmental PP was to identify all project licences, approvals and permits but was not filled out. Could the Partnership provide a list of these?
- 46) Section 1.7 "Reporting and Communication" of the GS Construction Environmental PP indicates that Manitoba Hydro will prepare an annual report on the compliance monitoring undertaken in connection with the construction of the Project. Please provide an overview of environmental non-compliances that occurred during the Wuskwatim Project? What were the most common environmental non-compliances or problems? How significant were these?

JKDA – Adverse Effects Agreements

- 47) Provide a listing of the conditions/clauses/elements in the JKKA and the Adverse Effects Agreements that apply to environmental management and monitoring for both the Keeyask site and offsetting locations. Specifically, how were/are they incorporated into the Keeyask Generation Project EPP, monitoring plan(s) and project oversight?

Debris Management

- 48) Will data collected through Manitoba Hydro's Waterways Management Program regarding the types and quantities of debris removed upstream and downstream of the generating station following forebay impoundment, be used along with relevant information collected during construction to determine if the debris environment changes as a result of operating the generating station, similar to the program that exists for Wuskwatim?

Monitoring

- 49) Regarding its monitoring process for the terrestrial and aquatic environments, is the Partnership willing to depart from the results of its VEC approach and investigate alleged project-related impacts on certain species (not determined to be VECs) based solely on information from local residents?
- 50) With respect to all of the monitoring activities conducted by Manitoba Hydro and its partner regarding the Wuskwatim Project from 2006 to date, were there any deficiencies or "gaps" that became apparent either in the monitoring process itself or with what was or should have been monitored? If so, what were they and what corrective measures were taken? Also, have those "risks" been dealt with in the proposed monitoring plans for the Keeyask Project?

- 51) Page 2 of the Draft Aquatic Effects Monitoring Plan (AEMP) indicates that the AEMP will be provided to and discussed with DFO and MCWS. Can the Partnership provide a general overview of how it will report to Manitoba Conservation on its monitoring activities (for the terrestrial, aquatic, physical, resource use, heritage and socio-economic environments) during construction and operations? How regular is the reporting? What is included in the Reporting? Are the Reports or components of them to be made public?
- 52) Has a preliminary assessment been done to estimate the extra work required by some Manitoba government departments (e.g., Manitoba Conservation, Manitoba Infrastructure and Transportation) because of the monitoring associated with the Project? Please identify all of the affected departments and give some indication of the increased workload each will be facing.

NFA/AJIC

- 53) The Panel heard testimony that both the Northern Flood Agreement and the report of the Aboriginal Justice Implementation Commission include provisions requiring consultation and/or consent from aboriginal groups prior to further resource development.

Article 9.2 of the NFA states: "Hydro shall not make any decisions in respect to any such future developments unless and until a process of bona fide and meaningful consultation with the communities has taken place."

Article 4.1 of the AJIC report states: "Any future, major, natural resource developments not proceed, unless and until agreements or treaties are reached with the Aboriginal people and communities in the region, including the Manitoba Métis Federation and its locals and regions, who might be negatively affected by such projects, in order to respect their Aboriginal, treaty, or other rights in the territory concerned."

Please clarify how these statements have been interpreted and applied for the Keeyask project?

CONSTRUCTION START

- 54) KHL P has stated that construction is to (must) start in the summer of 2014. How will it be possible given:
- CEC report will be filed in mid-April;
 - PUB is scheduled to file its report in June;

- Uncertain when Aboriginal consultations report will be filed;
- If approved then a licence will take a month or two; and
- The tendering process needs to be completed?

Please comment on the scheduling impacts considering the conditions provided above.