



CLEAN ENVIRONMENT COMMISSION HEARINGS ON BIPOLE III

PRESENTATION OF JOHN FLEURY

OCTOBER 23, 2012

Good afternoon. My name is John Fleury. I am the elected Board member for the Manitoba Métis Federation's (MMF) Southwest Region.

I am also a Métis harvester. I have been hunting, fishing and gathering since I was a child. These Métis traditions have been passed onto me from my parents and grandparents, and I continue to pass them onto my children today.

So, while I live in southwestern Manitoba --- I, along with many other harvesters in the Southwest Region go north to Riding Mountain as well as to the Swan River area for our annual moose and elk. This is a deeply entrenched tradition of our community.

We do this not just because that is where the moose and elk are. We do it because these areas are where our immediate and extended families are, and it is how we maintain our connection to our traditional territory. Our hunting traditions in this territory brings our families --- our community --- together each year.

Our community is not limited to site-specific settlements, towns or villages. We are one community – throughout this territory – numbering in the tens of thousands. Our constitutionally protected rights throughout our community were recognized by the Provincial Court of Manitoba in *R. v. Goodon* where Judge Coombs stated:

46 The Metis community of Western Canada has its own distinctive identity. As the Metis of this region were a creature of the fur trade and as they were compelled to be mobile in order to maintain their collective livelihood, the Metis "community" was more extensive than, for instance, the Metis community described at Sault Ste. Marie in **Powley**. The Metis created a large inter-related community that included numerous settlements located in present-day southwestern Manitoba, into Saskatchewan and including the northern Midwest United States.

47 This area was one community as the same people and their families used this entire territory as their homes, living off the land, and only periodically settling at a distinct location when it met their purposes.

More recently, the Manitoba Government has recognized part of our traditional territory and our harvesting rights throughout this territory. It has also recognized our Métis Laws of the Hunt and our right to regulate and have a say over our collectively held harvesting rights in this territory.

So, while much of our community's traditional land base was taken from us through fraudulent land grants processes initiated under the *Manitoba Act* and then under the *Dominion Lands Act*, we have never stopped using our traditional territory to sustain our culture, families and community.

In particular, our community's longstanding reliance of the west-side corridor of the province for harvesting is well-known. We refer to it as the large animal "bread basket" for the Manitoba Métis community. As a part of my presentation, I have attached a map that generally outlines this area.

Unfortunately, despite our significant populations within this region and intense reliance on it, the Crown proceeded to direct Manitoba Hydro to route Bipole III through this west side corridor without any consideration of our rights, interests of way of life.

Naturally, what is now being proposed in this territory matters very much to the Manitoba Métis, and we are not supportive of what Manitoba Hydro is currently proposing.

The Manitoba Métis have an important role to play as the stewards and users of this territory, but have been largely ignored by Manitoba Hydro as well as the Crown to date.

So you may be asking, why are we so concerned about Bipole III and Manitoba Hydro's lack of meaningful mitigation plans? The answer lies in the map I provided.

When you look at the area that was recognized in our harvesting agreement, it might look quite large (its approximately 700,000 square kilometers in size), but when you factor in where the moose range is, where we already have moose hunting closures, and how much Crown land has already been disturbed in the "bread basket," you can see that Métis options for moose hunting are increasingly limited.

Moreover, our "bread basket" does not just provide for the significant Métis population that lives in the west side corridor --- it also provides for our families in the Southwest Region as well as other regions. We are already being forced to go further north and applying increased pressures on other areas of the "bread basket."

Yet, despite all these factors coming together, Manitoba Hydro is proposing a route that cuts a new linear corridor through the heart of this area, with little to no real baseline data or solid mitigation plans in place.

For our community this is significant. We don't have any other options. This is the area that has sustained us for generations and it is under threat. We recognize that with our rights come responsibilities. That is why we have agreed to the moose closures.

However, our willingness to act responsibly should not be taken advantage of by Manitoba Hydro or the Crown by adding one more cut to the wound with proceeding with Bipole III --- without guarantees, sufficient protections and accommodations in place before the project is approved.

The MMF's experts are going to talk more about the gaps in Manitoba Hydro's EIS and the types of re-routing and heightened protections that are needed, but it is not acceptable that the meaningful exercise of our constitutional rights are sacrificed to avoid costs to Manitoba Hydro or avoid a landowner having to see a transmission line out of their window.

There has not been a fair consideration and balancing of the impacts on aboriginal rights and other interests in relation to this project. Manitoba Hydro acknowledges this because they say they aren't the Crown and they don't have to undertake any procedural aspects of the Crown's duty to consult.

On the other side, the Manitoba Government has not meaningfully consulted with us and because of the deficiencies within the EIS about impacts on the Métis community – the Crown does not have sufficient information in order to make a reasonable decision. Further, discussions with respect to re-routing go on without us --- without any consideration of how we use the land and the impacts on our rights. This is unacceptable.

What are our options? Threaten to hunt in the closed areas in protest to get people's attention? Go to court? Threaten protests?

One thing is for sure --- we will not potentially harm the recovery of the moose populations in the "bread basket" to prove a point. That is not in anyone's interest (including our own as stewards of the land), but because we take this principled position we should not be taken advantage of by the Manitoba Government and its agent.

Instead of resorting to court or protests at this time, we are here – at the Clean Environment Commission – to raise these issues. We believe in the important roles of the Commission. We are making active use of the process available, but the process needs to hear us and address our concerns --- not just "rubber stamp" Manitoba Hydro's plan.

We are deeply afraid that when you combine this new linear corridor with the other disturbances that will arise from Bipole III's construction on the west side, a "perfect storm" will ensue in the "bread basket" --- where the increase of the moose populations will be delayed, or be permanently affected because of Manitoba Hydro's choices and lack of planning.

We are already seeing that the increased congestion in the area is limiting harvesting opportunities and forcing harvesters to push into other areas --- putting new strains on populations that could lead to additional closures like GHA 12.

To date, we have found Manitoba Hydro's responses to our concerns insincere and not credible. Essentially, in response to a series of our Information Requests they answer in three ways:¹

- They use the Site Selection Environmental Assessment (SSEA) as that rationale for everything. But we know the SSEA was flawed when it comes to integrating real Aboriginal Traditional Knowledge into the route selection. First, Manitoba Hydro relies on an ATK study that uses artificial "aboriginal communities" and does not include representative samplings of the legitimate rights-bearing communities that did engage in that process. Second, we know Manitoba Hydro had already picked and settled on its route before many of the self-directed studies – from actual rights-bearing aboriginal communities – were received. Hiding behind a flawed assessment – that did not meaningfully consider aboriginal rights – cannot insulate Manitoba Hydro's route from scrutiny.
- They essentially argue that since there are many access routes in this corridor of the province already --- 'what's the harm of one more.' From the MMF's perspective, this is a callous response. Its essentially arguing that 'well we see your boat's already underwater --- flooding you shouldn't be a problem'. We do not accept that this is an acceptable response to serious concerns.
- They say any concerns about impacts on moose harvesting or Metis harvesters are the responsibility of Manitoba Conservation – as the "responsible management authority" – and Manitoba Hydro does not need to concern itself with these issues. Manitoba Hydro is the proponent asking for the authorization from the Crown --- it is their responsibility. That's like a mining company saying we want to use water from a lake for a tailings pond, but since the use of water is the government's responsibility --- they need to figure out how to limit the damage from the tailing pond. This wouldn't fly in other environmental situations – it shouldn't here either.

¹ See Manitoba Hydro's response to MCWS/MH-TAC-011a (June 22, 2012).

I hope my presentation has been helpful in explaining some of the MMF's concerns. As I indicated, the MMF's experts will detail these things in greater technical detail, but I hope my presentation was helpful in framing the issue and explaining the real, on-the-ground impacts Bipole III will have on the Manitoba Métis community generally and us living in southwestern Manitoba specifically.

Thank you.