

June 5, 2017

Clean Environment Commission  
305-155 Carlton Avenue  
Winnipeg, Manitoba  
R3C 3H8

RE: CEC MMTP Hearings, DPWO Closing Comments

Attention: Cathy Johnson, CEC Secretary

Dear Cathy:

On behalf of Chief Smoke and Dakota Plains Wahpeton Oyate, we are now able to provide the Commission with our closing comments and concerns. They are:

### **TAC Expectations**

The Minister's Revised Terms of Reference to The CEC, issued February 15, 2017, included the assurance that "a detailed technical review will be completed by provincial agencies...and Federal specialists will also be invited to provide comments".

During the Hearing Hydro Senior Council assured us that all correspondence between TAC and Hydro was available for public review and that there is no other.

Attached please find our analysis of TAC review as posted on The Public Registry. We believe a serious deficiency clearly exists in this level of TAC non-participation. We leave it to The CEC as to if The Minister's assurance of a "detailed technical review" with Federal contribution has, in fact, occurred.

On a go forward we believe this deficiency can be mitigated with direction from The Minister to all TAC participants to be and remain seriously engaged. As a personal note, we find it frustrating that the single greatest available source of Environmental knowledge and oversight in Manitoba provides so little in the way of contribution to this process.

### **The Environment Act**

#### **Climate change considerations**

12.0.2 When considering a proposal, the director or minister must take into account — in addition to other potential environmental impacts of the proposed development — the amount of greenhouse gases to be generated by the proposed development and the energy efficiency of the proposed development.

We do not see how the Minister can provide the oversight and consideration she **must**, take regarding GHG and energy efficiency, given the lack of information provided.

The GHG LCA is deeply flawed, includes little third party contribution, was not defended by its authors and is based almost entirely on assumptions. The CEC needs to require a post event report confirming, or not, the quantities presented, for the Minister's review. This is easily done. Hydro clearly demonstrated their ability to monitor most any aspect of what they do. Fuel consumption reports are the greatest concern and contractors can simply be required to provide that information. If monitored monthly, as in other jurisdictions, Hydro could manage, and if required, mitigate, to ensure their assurances are achieved.

### **Biomass**

The Scope of Work describes clearing approximately 550 hectares of biomass. Hydro makes no commitment to dispose of that material in an environmentally responsible process. Nor, should they choose to burn the residue, will Hydro agree to abide by Provincial Residue Burning By-laws. The CEC needs to ensure that Hydro dispose of the biomass in the most environmentally friendly manner. This could include delivery to biomass consumers, mulching, firewood distribution and commercial use. A "zero burn" condition can be easily and responsibly met. It is being done in other constituents.

### **Right of Way Width**

Hydro has numerous existing RoW's of significantly less width than this proposed 80/100 m. solution. If safety is the concern, why does Hydro leave those obviously un-safe RoW's at their existing width?

This transmission line connects to The Great Northern RoW that is 30% narrower than Hydro claims to need. This scar across southern Manitoba can be reduced. The CEC should require that.

### **EMF and "Stray Voltage"**

Hydro assures us that there is no concern. Their Expert indicates measuring of EMF is a straightforward easily delivered process. Simply, if EMF is of no concern, according to Hydro, but of grave concern to many, The CEC should require an EMF pre-construction measured baseline and then a post construction comparison of fully loaded lines. Let the results, and not various opposing opinions, speak to the matter. Should there be issues found, imbed language that requires Hydro to mitigate or compensate to the levels of assurance we have received.

### **Ice Bridges**

We heard completely conflicting evidence on Hydro's use of ice bridges to cross creeks, streams and waterways. We have experienced these bridges being the last to melt out and we are concerned that left as last to melt, fish spawning will be seriously compromised. The CEC should include language that reduces their use and ensures their first removal.

### **GHG Reduction**

Hydro should be required to approach GHG reduction as a deliverable of this Work. No idling, GHG contribution alternatives considered, no burning and all contemporary methods of GHG reduction should be the next step in Hydro's position of continually improving their game.

### **The Quality and Aesthetics of The Right of Way**

Unlike northern Manitoba, many will witness this cut line. Hydro has the ability to design and institute type and style that can significantly reduce the starkness of this work. The CEC needs to clearly describe what that must entail. A 100 m. sharp slash through southern Manitoba can be softened and accommodated in so many ways, The CEC must imbed firm instructions in this regard.

### **Communication**

All affected Stakeholders must be kept "in the loop" as the Work proceeds. Changes to the Work, and there will be many, must include Stakeholder participation. The Director and Hydro must be required to include all affected, BEFORE the change is approved. The Bi-pole 3 registry has more than 270 entries, it appears to revise the License perhaps 77 times and yet just one change appears to have been copied to the affected First Nation.

All "adjustments", changes, modifications or additional information must be reviewed by affected First Nations as part of, and within, the process. Posting on a hard to find web page, after the fact, is just not acceptable.

### **Authority for Change**

The Bipole process has taught us that occasionally significant matters are resolved between Hydro and The Director with no stakeholder input. The CEC needs to recommend the mechanism to ensure that the oversight provided in this current review process does not evaporate as the Work starts.

Strong language establishing low thresholds for public and Stakeholder contribution needs to be applied.

### **The EIS and Hydro Supporting Documents**

We found this presentation superior to Bipole in many ways. Having said that, there is concern.

Hydro must vet their Experts. One single review of Hydro CV's found at least two concerns. The GHG LCA was not supported by its authors, in this or any previous hearings.

### **Tower Spacing, Height, and Style Selection**

The defining aesthetic decisions of this Work were made by Hydro long before the CEC review process began. The CEC is probably too late to instruct or cause any public input, however Hydro should be cautioned to not return to Environmental Review with the visual environment decisions pre-determined. The public owns a say in what the solution will look like and there are alternatives. They have neither been provided nor considered.

### **Access to Dakota un-surrendered Lands**

During these hearings Hydro agreed that these lands have been The Dakota's traditional lands since before 1200 AD. All agree that, unlike other participants, The Dakota's have never vested, ceded or surrendered these lands. DPWO participated in these hearings denied of funds to obtain legal Council.

The Applicant is well advised to resolve access agreements with DPWO prior to the start of The Work. The Crown has no rights to these lands without Dakota agreement. Any assumption that access will be provided is premature. Chief Smoke and his Council of Elders await Hydro's call.

On behalf of DPWO we thank The Clean Environment Commission and its Commission Members, for allowing us to participate to the extent you did. We continue to encourage The Chair to look at ways and means of expanding participation, both through greater access to resources and expanded schedules. Finally, we encourage The Commission to always act in the most equitable manner. Robert Dawson, Council to a Participant at Bipole CEC said it perhaps best, when he said, "in the very least, we should all leave here feeling we've been treated fairly".

Sincerely,

DPWO CEC Participation Team

Cc: Chief Smoke, all participants, The NEB

**TAC Review Summary of Manitoba Hydro**

Scoping Document Review	
Contact:	Response:
unknown	no concerns or comments
Christina Nesbitt	high risk and concerns
Craig Elder	Nine recommendations
name redacted	Five comments
Katy Walsh	Typo corrected
Brian Wilson	One comment
James Stibbard	no cause for concern
Winnifred Frias	"has no comment at this time"
Jason Kelly	concern regarding a description and cumulative effects
Terry Sargeant	Fourteen comments
Dan Roberts	Four recommendations, one reminder
-0-	no comment provided
-0-	no comment provided

**6 of 13 offered usable comments.**

- Department**
- Environmental Compliance and Enforcement
  - Historic Resources
  - (F) NEB
  - Infrastructure and Transportation
  - Community and Regional Planning
  - Agriculture, Food and rural Development
  - Office of Drinking Water
  - Lands Branch
  - Parks and Protected Spaces
  - Clean Environment Commission
  - Water Control Works and Drainage Licensing
  - Public Health
  - (F) Environment Canada

**Ten Provincial TAC contributors**

**Two Federal TAC contributors**

**One CEC contribution**

**Not apparently contributing:**

- MIT
- Air Quality
- WEPB
- Sustainable Resource Policy
- Water Stewardship
- (F) Fisheries
- (F) Health Canada

**Therefore, including just those who appear not to have contributed:**

**Note: considerable contribution thru IR's**

**6 of 20 offered usable comments.**

Environmental Impact Statement Review	
Contact:	Response:
Geoffry Stevens	no concerns or comments
-0-	no comment provided
-0-	no comment provided
Ryan Coulter	Fifteen comments
Lubna Yeasmin	Thirteen comments
-0-	no comment provided
-0-	no comment provided
-0-	no comment provided
name redacted	no concerns or comments
Serge Scrafield	no comment provided
Dan Roberts	Cut and paste response, date removed
Susan Roberecki	Nine questions, one comment
unnamed source	Cover letter deleted, four clarifications requested

**4 of 13 offered usable comments.**

**4 of 20 offered usable comments.**