

**SCHEDULE 3-1**

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**ENVIRONMENTAL AND REGULATORY PROTOCOL**

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### ENVIRONMENTAL AND REGULATORY PROTOCOL

#### Definitions

1. For the purposes of this **Environmental Protocol**, where the initial letter of a term is capitalized and the term is in bold, that term shall have the meaning accorded to it in the **JKDA**.

#### Participation in Regulatory Process

2. Pursuant to subsection 3.1.1 of the **JKDA**, from the date of the **JKDA** up to the **Initial Closing Date**, **Hydro** and each of **CNP**, **York Factory** and **Fox Lake** whose **Members** authorize the execution of the **JKDA** in accordance with the **Ratification Protocol** and who execute the **JKDA**, will undertake jointly, in accordance with this **Environmental Protocol**, such activities as may be necessary or desirable to cause the **Closing Licences** to be issued in the name of the **Limited Partnership**, including:

- (a) the completion of the **Environmental Impact Assessment**;
- (b) the preparation and filing of the **EIS** with **Regulatory Authorities**; and
- (c) participating in any hearings that are part of the process followed by a **Regulatory Authority** related to the **EIS**.

#### Proponent for Environmental Licence

3. The **Limited Partnership** will be the proponent of the **Keeyask Project** for the purposes of *The Environment Act* (Manitoba) and the *Canadian Environmental Assessment Act* (Canada).

#### Hydro Primarily Responsible

4. Notwithstanding sections 2 and 3, **Hydro** shall have primary responsibility for all matters related to obtaining the **Closing Licences**, including matters referred to in clauses 2 (a), (b) and (c), subject to section 18 of this **Environmental Protocol**, under the direction and control of the **PRLC** and as provided in this **Environmental Protocol**.

#### Keeyask Cree Nation Participation

5. The **Keeyask Cree Nations** will cooperate and will participate in the collection and analysis of information required for the **Environmental Impact Assessment** and other

environmental and regulatory planning processes in accordance with the structures and process set out in this **Environmental Protocol** and will support the submissions to **Regulatory Authorities** and will participate as required in making these submission, as determined by the **PRLC**.

### **Consultation with Regulatory Authorities**

6. As early in the assessment and planning process as possible, **Regulatory Authorities** will be consulted with respect to:

- (a) procedural requirements necessary to complete the regulatory review and approval processes, including cooperation between **Canada** and **Manitoba**;
- (b) collection and analysis of information; and
- (c) such consultation as may be required.

### **Guiding Principles of the Environmental Assessment Process**

7. Subject to the specific provisions of this **Environmental Protocol**, the following general principles will guide the **Environmental Impact Assessment** and regulatory processes:

- (a) information collection for the **Environmental Impact Assessment** will include both Aboriginal traditional knowledge and western scientific analysis;
- (b) the **Keeyask Cree Nations** and **Hydro** will cooperate in community and public consultations, as may be required to undertake the **Environmental Impact Assessment**, with each of the **Keeyask Cree Nations** being responsible for and facilitating community and such other consultation processes with its respective **Members**, with the support and, as agreed by the parties, with the participation of **Hydro**; and **Hydro** being responsible for and facilitating community and such other consultation processes with members of communities other than the **Keeyask Cree Nation** communities, with the support and participation of the other **Parties**;
- (c) for all components of the assessment, study methods for collecting, organizing and evaluating information must be compatible with each other and be capable of being integrated into the **EIS**;
- (d) all information collection and analysis, including all consultation, will be documented sufficiently to demonstrate compliance with contractual and regulatory requirements;

- (e) the methodology and analysis for the **Environmental Impact Assessment** must be credible and defensible under hostile peer review and transparent to external review;
- (f) an **EIS** will be prepared which sets out the results of the **Environmental Impact Assessment**, including environmental information collection and analysis and public consultation;
- (g) all information necessary to conduct and complete the **Environmental Impact Assessment** and prepare the **EIS** will be shared in a timely fashion by the **Parties**, with the objective of facilitating a coordinated, consistent and timely review process; and
- (h) the **Environmental Impact Assessment** will be conducted and the **EIS** will be prepared in a manner consistent with all legal requirements of the regulatory review and approval processes, including the **EIS Guidelines**.

### **Organizational Structure**

8. The **Parties** have agreed on an organizational structure for the management of the work required to conduct the **Environmental Impact Assessment** and comply with regulatory processes, consisting of the following committees and teams:

- (a) the Specialist Teams, described in section 9;
- (b) the **EIS Coordination Team**, described in section 11; and
- (c) the **PRLC**, described in section 15.

### **Specialist Teams and Functions**

9. **CNP** and **Hydro** each have retained their own teams of specialists (“Specialist Teams”) to carry out the work assigned to each of them, respectively, as set out in section 10. Decisions in relation to the activities of the Specialist Teams will be made by consensus of the Specialist Teams representatives. However, where the representatives of the Specialist Teams are unable to reach consensus on any matter, the matter shall be directed to the **EIS Coordination Team** for resolution.

### **Division of Work**

10. For the purpose of carrying out the **Environmental Impact Assessment**, the **Parties** have agreed:

- (a) with respect to the preparation of the project description and the analysis of physical and biophysical impacts, the **Hydro** Specialist Team will have the lead role and the **CNP** Specialist Team will review and approve **Hydro's** work plans. **Hydro** will also solicit input from **York Factory** and **Fox Lake** on **Hydro's** work plans;
- (b) with respect to the analysis of socio-economic impacts:
  - (i) the **CNP** Specialist Team will have the lead role in relation to the impacts on the communities of **TCN** and **War Lake** and their respective **Members**, and **Hydro** will review and approve the **CNP** work plans. **Hydro** will also solicit input from **York Factory** and **Fox Lake** on the **CNP** work plans; and
  - (ii) in relation to the socio-economic impacts on communities and people other than **TCN** and **War Lake** and their respective **Members**, the **Hydro** Specialist Team will have the lead role and the **CNP** Specialist Team will review and approve **Hydro's** work plans. **Hydro** will also solicit input from **York Factory** and **Fox Lake** on **Hydro's** work plans.

### **EIS Coordination Team**

11. The **EIS Coordination Team** will be composed of two (2) **CNP** team coordinators and two (2) **Hydro** team coordinators, consisting of one (1) each for the biophysical assessment and one (1) each for the socio-economic assessment. Decision-making by the **EIS Coordination Team** will be by consensus of the team members. However, where the members of the **EIS Coordination Team** are unable to reach consensus on any matter, the matter shall be directed to the **PRLC** for resolution. **York Factory** and **Fox Lake** will each have one (1) non-voting representative on the **EIS Coordination Team**.

### **Purpose of the EIS Coordination Team**

12. The **EIS Coordination Team** will act as coordinators of the **CNP** and **Hydro** Specialist Teams and will be responsible for the coordination of the **Environmental Impact Assessment**. The **Hydro** team coordinators will have a lead role for their respective disciplines and the **CNP** team coordinators will have a review and approve function. **York Factory** and **Fox Lake** will provide input through their representatives to the **EIS Coordination Team** referred to in section 11.

### **Functions of the EIS Coordination Team**

13. In addition to the matters set out in section 12, the **EIS Coordination Team** will be responsible for the following:

- (a) recommend a draft of the **Environment Act Proposal Form** to the **PRLC** for approval;
- (b) review and approval of all work plans of the Specialist Teams;
- (c) recommend an overall **Environmental Impact Assessment** study plan to the **PRLC** for approval;
- (d) coordination of all environmental studies undertaken by the Specialist Teams;
- (e) coordination and preparation of the **EIS**;
- (f) integration of the **Environmental Protection Plan** with the **EIS**;
- (g) review of the draft **EIS** and recommending the draft to the **PRLC** for approval; and
- (h) provide regular progress reports to the **PRLC**.

### **Preparation of the EIS**

14. The **Hydro** team coordinators will have the lead role in preparing the initial draft of the **EIS**. The **Hydro** team coordinators will also solicit input from **York Factory** and **Fox Lake** on the draft **EIS**. The **CNP** team coordinators will review and approve the draft **EIS** before it is submitted for the consideration of the **PRLC**.

### **PRLC**

15. The **PRLC** will be composed of the following:
- (a) three (3) employees of **Hydro**, one (1) of whom will act as co-chair;
  - (b) three (3) community Members from **TCN** and two (2) from **War Lake**, one (1) of the five (5) of whom will act as co-chair;
  - (c) two (2) community Members from **York Factory**; and
  - (d) two (2) community Members from **Fox Lake**.

Decision-making by the **PRLC** will be by a consensus of committee members. However, if the members of the **PRLC** are unable to reach consensus on any matter, the matter will be decided by agreement between **Hydro** and the **Cree Nation Partners**.

## Purpose of the PRLC

16. The **PRLC** will be responsible for the over-all decision-making in relation to all matters related to obtaining the **Closing Licences**, including matters referred to in clauses 2 (a), (b) and (c) of this **Environmental Protocol**, from the date of the **JKDA** to the **Initial Closing Date**, subject to section 18 of this **Environmental Protocol**. Advisors may attend meetings of the **PRLC** upon the request of the Co-Chairs.

## Functions of the PRLC

17. In addition to the matters set out in section 16 of this **Environmental Protocol**, the **PRLC** will be responsible for:

- (a) providing strategic advice in relation to environmental and regulatory matters;
- (b) making final decisions on all plans for consultation with the public and **Regulatory Authorities**;
- (c) making final decisions on the submission of the **Environmental Act Proposal Form** and the **EIS** to **Regulatory Authorities**;
- (d) reviewing and approving plans for the defence of the **EIS**;
- (e) making final decisions in relation to key environmental and regulatory matters; and
- (f) making decisions in respect of matters and things that cannot be agreed to by the **EIS Coordination Team**, as required.

## Post-Filing of the EIS

18. While it remains the intention that the **PRLC** will have supervisory or governing authority, once the **EIS** is filed with **Regulatory Authorities**, day-to-day operational and real-time decisions, including decisions with respect to the preparation and filing of responses to interrogatories and decisions regarding the conduct of the public regulatory hearings, will be made by **Hydro**. Notwithstanding the foregoing, the **PRLC** will be consulted on the following matters:

- (a) upon receipt by the **Limited Partnership** of the written response to the filing of the **EIS** from the Technical Advisory Committee established by the Province of Manitoba to review the **EIS**, the **PRLC** will determine whether the **Limited Partnership's** filing in reply should be by way of a new **EIS** or a major supplementary filing;

- (b) the **PRLC** will determine, at the outset of the public hearings in respect of the **EIS**, the composition of the proponent's witness panel for the purposes of such hearings; and
- (c) **Hydro** will consult with the **PRLC** prior to making any statement or filing that would constitute a substantial contradiction to anything contained in the **EIS**.