

Manitoba-Minnesota Transmission Project

Crown Land Offset Measures Plan

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Licensing & Environmental Assessment Department

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List of revisions

Number	Nature of revision	Section(s)	Revised by	Date
1	Provided additional information regarding the land selection process.	3, 3.2, 3.3, 3.4	MH	12/02/2020

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Preface

This document presents Manitoba Hydro's proposed Crown Land Offset Measures Plan (the Plan) for the Manitoba-Minnesota Transmission Project (the Project). The Plan continues to propose offset rather than compensation measures as the most effective way of addressing the permanent loss of Crown land caused by the Project.

The path to arriving at the measures put forward in this Plan was challenging and sets a new precedent for an offsetting program in Manitoba. An initial draft Plan was shared with Indigenous communities and government authorities in November of 2019. The draft focused on the method of calculating the area of land considered permanently unavailable for practicing traditional activities, sought input on preferred criteria for the selection of offset land and briefly noted the process for the protection of offset land through the creation of conservation easements using existing Provincial conservation organizations. Although input from government authorities was generally positive, initial feedback from Indigenous communities revealed concerns with the proposed approach. These included concerns that: (i) the proposed approach underestimated the area of Crown land considered permanently lost by only taking into account land under the tower footprints; and (ii) offset lands may not be protected for their intended purpose in the long term. This feedback caused Manitoba Hydro to revise their approach, ask for more time from the Commission to consult and re-engage Indigenous communities and government authorities in consultation on a plan. The development of the Plan was further complicated by the COVID-19 pandemic which required consultations to shift online for the most part and requiring creativity to consult in a manner that brought understanding and supported meaningful discussion.

This Plan attempts to incorporate ways to mitigate concerns heard throughout consultation and draws upon those valued land characteristics shared by Indigenous communities throughout the Project record. This Plan proposes one additional type of measure to fulfil Condition 22, as a supplement to Manitoba Hydro's other measures aimed at mitigating impacts to Crown land. The proposal involves offsetting for the permanent loss of Crown lands available for traditional use by Indigenous people by adding to the amount of Provincial Crown land currently available for traditional use. The method for calculating the amount of land to be offset includes a multiplier to address uncertainty related to the effectiveness of new land parcels at supporting traditional use by Indigenous Peoples. Additional Crown land will be created through the purchase of private land by Manitoba Hydro then transferred to the Province of Manitoba based on the procedures and protections under Provincial Crown lands legislation. The provisions of a

draft written arrangement between Manitoba Hydro and the Province of Manitoba are aimed at providing more certainty regarding the long-term benefits of the offset land to communities. In general, the offsetting measures are intended to reflect a recognition that: Crown land is important for rights-holders; individual Indigenous communities may have different interests in land parcels; and the selection of offset land should be made jointly between Indigenous communities and Manitoba Hydro.

Regulators and Indigenous communities are encouraged to direct any comments or inquiries about this Plan to their current Manitoba Hydro contact at the Licensing and Environmental Assessment Department or alternatively:

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1. PURPOSE

The purpose of this Plan is to outline offset measures to address the permanent loss of Crown lands available for traditional use by Indigenous Peoples resulting from the Project, in compliance with Condition 22 of Certificate of Public Convenience and Necessity EC-059 (issued June 18th, 2019 by the NEB). This condition states the following:

Manitoba Hydro must file with the Board, for approval, 30 days prior to commencing operations¹, a Crown Land Offset Measures Plan (the Plan) that outlines how permanent loss of crown lands available for traditional use by Indigenous Peoples resulting from the Project will be offset or compensated for. The Plan must include:

- a) a description of site-specific details and maps showing the locations where Crown land is no longer available for traditional use as a result of Project activities at Dorsey Converter Station and the transmission tower locations, as well as any other locations;*
- b) a list of the offset or compensation measures that will be implemented to address the permanent loss of Crown lands identified in a) above;*
- c) an explanation of the expected effectiveness of each offset measure described in b) for each Indigenous community;*
- d) the decision-making criteria for selecting specific offset measures that would be used and under what circumstances;*
- e) a schedule indicating when measures will be implemented and the estimated completion date(s);*
- f) summary of consultation by Manitoba Hydro with any impacted Indigenous communities and with relevant provincial and federal authorities regarding the Plan; and,*
- g) this summary must include a description of any issues or concerns raised regarding the plan by Indigenous communities and how Manitoba Hydro has addressed or responded to them.*

¹ The time period for filing the Plan was extended by the Commission of the Canada Energy Regulator. See [C06206-1](#), Request Dated January 24, 2020 for Timing Relief, May 7, 2020.

The offset measures proposed in this Plan are in addition to the many measures already developed by Manitoba Hydro to protect, mitigate, rehabilitate and monitor Crown lands impacted by the Project. Other measures are described in detail in the following documents:

- The MMTP Environmental Impact Statement²;
- The MMTP Construction Environmental Protection Plan³;
- The MMTP Construction Environmental Protection Plan Mapbook (Part 1 of 2)⁴ (Part 2 of 2)⁵;
- The MMTP Environmental Monitoring Plan⁶; and,
- The MMTP Rehabilitation and Invasive Species Management Plan⁷;

² [A81182](#) Manitoba-Minnesota Transmission Project EIS, January 4, 2017.

³ [C00033-2](#) MMTP EPP CEnvPP, June 19, 2019.

⁴ [C00830-2](#) CEnvPP Mapbook (Part 1 of 2), August 2, 2019.

⁵ [C00830-3](#) CEnvPP Mapbook (Part 2 of 2), August 2, 2019.

⁶ [C00033-20](#) MMTP EPP Environmental Monitoring Plan, June 19, 2019.

⁷ [C00830-4](#) MMTP EPP Rehabilitation and Invasive Species Management Plan, August 2, 2019

2. OVERVIEW OF PLAN

2.1 OFFSET MEASURES

Manitoba Hydro proposes to offset for the permanent loss of Crown lands available for traditional use by Indigenous people by adding to the amount of Provincial Crown land currently available for traditional use. The first step in implementing the offset measures involves Manitoba Hydro establishing a Trust that will be used to fund the review and acquisition of offset lands. The trust will be known as the “MMTP Crown Lands Offset Measures Trust” (the “Trust”) and will receive a \$815,219.00 contribution from Manitoba Hydro once approval of the Final Plan is received from the Canada Energy Regulator (CER). Additional funds will be added to the Trust as and when necessary for administrative costs.

Parcels of eligible offset lands will be selected by Manitoba Hydro from private lands available for sale in southeastern Manitoba (see Area of Focus in Map 2). These selections will be made using specific criteria designed to assess the lands' suitability for the exercise of traditional rights and suitability for purchase that have been developed by Manitoba Hydro in consultation with Indigenous communities. Indigenous communities may also identify parcels of interest for Manitoba Hydro's consideration. The description of these parcels will be uploaded to a website or details will be emailed to specific representatives identified by Indigenous communities for consideration so that their feedback can be provided. Funds from the Trust will be made available to communities for this review process.

Manitoba Hydro clarifies that its use of the word "selection" in this Plan is not to be confused with a selection or acquisition under the Treaty Land Entitlement Framework Agreement or any of the individual Treaty Land Entitlement (TLE) agreements signed with various communities. Rather, this Plan includes a procedure to try to ensure that TLE selections or acquisitions by Indigenous communities are not included or impacted by any lands that may be selected as eligible offset lands.

Parcels aligned with the selection criteria outlined in this Plan and that do not raise significant concerns from communities will be purchased by Manitoba Hydro. Through a written arrangement with the Province of Manitoba, Manitoba Hydro will transfer the parcels that have been purchased to the Province of Manitoba. It is presently anticipated that the Province will accept the transfer of these parcels at a nominal fee by Order in Council and withdraw the lands from disposition at the same time, in accordance with s. 5 of The Crown Lands Act, so that the lands may be used in support of the exercise of traditional rights by Indigenous communities.

Manitoba Hydro will continue to purchase parcels of land gradually over time until at least 96.4 ha of offset lands have been established as Provincial Crown lands. These offset lands will be monitored by Manitoba Hydro for a period of time as detailed in section 3.6 Monitoring & reporting.

The land offset process is illustrated below in Figure 1.



Figure 1: The land offset process

A detailed description of each of the above-noted steps of the proposed offset measures, as required by clause b of Condition 22, is provided in Section 3.

2.2 OTHER COMPONENTS OF PLAN

Other components of the Plan required by Condition 22 can be found as follows:

- *The map book (Map 1) provides a description of site-specific details and maps showing the locations where Crown land is no longer available for traditional use at transmission tower locations.*
- *An explanation of the expected effectiveness of each offset measure described in Condition 22 b) for each Indigenous community is provided in section 5.*
- *The decision-making criteria for selecting specific offset measures that would be used and under what circumstances is provided in section 6.*
- *A schedule indicating when measures will be implemented and the estimated completion date(s) is provided in section 7.*
- *A summary of consultation by Manitoba Hydro with any impacted Indigenous communities and with relevant provincial and federal authorities regarding the Plan is provided below in Section 4 and in Appendices Appendix B and Appendix C.*

- *Section 4.2 summarizes how Manitoba Hydro responded to feedback received from consultation with communities. A detailed description of any issues or concerns raised regarding the Plan by Indigenous communities and how Manitoba Hydro has addressed or responded to them is provided in Appendix C*

3. DESCRIPTION OF OFFSET MEASURES

The overall objective of the Plan's measures is to place impacted Indigenous communities in as comparable a position as possible to the position they were in prior to MMTP in terms of their ability to exercise traditional rights in the Project area. Accordingly, Manitoba Hydro's proposal is to create additional Provincial Crown land for the exercise of traditional rights by Indigenous communities in order to offset for the permanent loss of Provincial Crown land on which portions of the Project are located. The steps involved in implementing the Plan's proposed measures are described below. As the various steps are implemented, Manitoba Hydro will seek input from communities about preferences, concerns and ideas that may improve this process, while adhering to the Plan's core objective.

Prior to initiation of the steps outlined below, Manitoba Hydro will reach out to communities to better understand locations and criteria used to select TLE and other lands of interest in order to avoid land selections made under this Plan conflicting with those other processes. Manitoba Hydro will also work with Indigenous communities to engage Cultural representatives from Dakota, Anishinaabe and Metis (through the MMF) communities. These representatives will be invited to take part in assessing the cultural value of each parcel of land selected prior to purchasing. Cultural representatives will have experience in activities related to traditional use of the land as their role would involve assessing parcels for traditional use.

3.1 MANITOBA HYDRO WILL CREATE A TRUST FOR MMTP LAND OFFSETTING

AMOUNT AND PURPOSES OF TRUST

Once the Plan receives approval from the Canada Energy Regulator (CER) and an arrangement between Manitoba Hydro and the Province of Manitoba regarding land transfers pursuant to section 3.5 of the Plan has been finalized, a trust will be created with an initial \$815,219 contribution (the "Contribution") from Manitoba Hydro, to be known as the "MMTP Crown Lands Offset Measures Trust" (the "Trust"). Allocation of the Trust funds and their purpose is as follows:

- a) \$500,219 will be allocated to purchase 96.4 ha of private land in the Area of Focus that is available and suitable to support the exercise of traditional Indigenous activities (including hunting, gathering and other traditional pursuits); and
- b) \$315,000 will be allocated to support consultation and review of land parcels by Indigenous communities (based on participation by 21 communities).

Manitoba Hydro notes that, while these amounts are considered to be a reasonable estimate of the funds required to achieve the stated purposes, additional contributions will be made if necessary. In addition to the \$815,219 contribution for land purchases and consultation, additional funds will be added to the Trust as needed to support Phase 1 Environmental Site Assessments, municipal expenses and other administrative costs that Manitoba Hydro will incur for the purchase of land and administration of the Trust.

INCREASE IN CONTRIBUTION SINCE INITIAL PLAN

Manitoba Hydro's contribution of \$815,219 to the Trust is a 152 percent (%) increase from the previous value put forward in the November 2019 Draft Plan (\$323,000). The rationale for this increase in the contribution amount is outlined below.

INITIAL PLAN:

In its November 2019 draft Plan, Manitoba Hydro proposed a methodology for calculating the area of land considered permanently lost for traditional use by Indigenous Peoples resulting from the Project (see Appendix E: November 29, 2019 Draft Crown land offset measures plan). This methodology was based on the view that only the area of Crown lands located under tower structures is inaccessible and so permanently lost for traditional use. There are 75 guyed towers and 64 self-supporting towers that occur on Crown land along the right-of-way. The surface area under each of these 139 towers on Crown land was added, totalling 24.1 hectares, then multiplied by the highest arable agricultural land easement rate⁸ of approximately \$13,400 per hectare, resulting in a total offset land cost of \$322,940 (rounded to \$323,000). Manitoba Hydro therefore initially envisioned providing this sum of money to the Province of Manitoba in order to enable an existing conservation organization (such as the Manitoba Habitat Heritage Corporation) to establish conservation easements. This conservation organization would then have added this sum to their general program budget.

CONCERNS:

During engagement on the November 2019 draft Plan Indigenous communities shared that they did not agree with the proposed methodology for determining the area of land considered permanently lost for the practice of traditional pursuits. Additionally, Sagkeeng First Nation and other communities shared concerns that the \$323,000 figure may not properly account for the

⁸ Offset initiatives often include a multiplier in their calculation to account for uncertainty. The highest arable agricultural land easement rate was chosen, rather than land values close to the Crown lands traversed by the Project to act as a 'multiplier.'

uncertainties and unknowns inherent in an offset program, such as whether the acquired land would have the same cultural value as the land that has been lost, what the accessibility and comparability of new land to be acquired would be like, and other tangible and intangible factors.

JUSTIFICATION FOR REVISED CONTRIBUTION:

In determining a revised contribution amount related to purchasing offset lands, Manitoba Hydro changed both the area of offset lands to be acquired as well as the estimated purchase price for offset lands, as explained below.

i. Pricing of Offset Lands: The views of communities were considered, and in response, Manitoba Hydro has revised the approach to fulfilling Condition 22. A key concern of communities was the involvement of an unfamiliar conservation organization. Manitoba Hydro recognized that as a third party would be responsible for the selection and purchase of lands in the original draft plan, there was a fair amount of uncertainty related to how land selected for purchase would be prioritized and what types of land would ultimately get selected. The original November 2019 draft plan attempted to address this uncertainty by using the highest arable agricultural land easement rate (in accordance with rates typically used by Manitoba Hydro when establishing easements), estimated to be approximately \$13,400 per ha.

This Plan involves Manitoba Hydro purchasing lands with input from Indigenous communities as opposed to providing funds for a third party to undertake the land purchases. Such a shift in approach should remove or lessen some uncertainty. For example, as part of the revised approach, criteria to guide selection of land for purchase has now been developed in accordance with feedback received from communities. The establishment of criteria has removed some of the uncertainty concerning what types of land will be targeted and how land purchases under the program will be prioritized. Manitoba Hydro has also identified a specific area of Manitoba to direct parcel selections, the Area of Focus shown in Map 2, thereby providing further certainty on the actual land values needed to offset lands. Specifically, the revised approach now uses current local land value (\$5,189/ha) in the formula to determine funds to be set aside for land purchase, which more accurately reflects the price of the lands most likely to be sought for purchase in the Area of Focus.

ii. Calculation of Amount of Offset Lands: Offsetting programs aim to replace what is lost but often create some uncertainty in quantifying what was lost and determining how an offset program might successfully meet its goals. David Poulton, the Executive Director

of the Alberta Association for Conservation Offsets, describes this uncertainty when he states *“The concept requires that we have sufficient knowledge and experience to confidently predict offset activities will in fact produce the desired and expected outcomes and benefits, and that we have a framework to quantify both losses and gains to assure that compensation is adequate.”* (2018). Multipliers act to address different types of uncertainty associated with offset programs, including whether offset lands will achieve the desired goals of the program.

Manitoba Hydro recognizes that there are many areas of uncertainty and other factors that could impact the success of this program. Accordingly, and through consultation on the draft plan and a review of literature related to conservation offset programs, several areas of uncertainty were identified, including the following:

- uncertainty on whether parcels with similar land features to those being offset would be available for purchase. For example, over half of the permanently lost Crown lands are located along the Red River Floodway. This area is regularly mowed and maintained to enable operation of the floodway. It is likely that some of the offset lands to be purchased will better support traditional activities than those currently supported in this heavily managed area. Some parcels selected as offset lands may support different traditional activities. For example, some of the permanently lost Crown lands are grassland, whereas lands purchased to offset these parcels may be forested, and different traditional activities might occur on forested rather than grasslands. Although an engagement process has been set up to address such concerns, there may well be circumstances where a portion of a parcel purchased is not as supportive of traditional activities as might be desired.
- uncertainty on whether new parcels will support traditional activities as well as those parcels being offset. New parcels of land may not be located adjacent to existing Crown land, thereby creating a patchwork of lands rather than a single contiguous area. New parcels may also not support the same plant and animal species, thereby potentially reducing the success of harvesting activities or changing the nature of the activity.
- uncertainty on whether new parcels may be located where future development in the surrounding area may affect traditional use.

These indirect and potentially cumulative effects are unknown, as well as other unforeseen barriers that may result in reduced use yet to be determined.

Manitoba Hydro also recognizes that new lands will not be acquired immediately, and so there will be a time lag between when lands are permanently lost and when new offset lands will be ready.

Some of these uncertainties will be addressed during the parcel review process; however, others will not.

In Sagkeeng First Nation's feedback on the November 2019 Draft Plan, Sagkeeng requested that *"Manitoba Hydro offset new projects at rates that begin to address the legacy footprint. Scientific best practice dictates the need for offsetting with a multiplier for addressing both project and cumulative effects. Scientific studies indicate that vegetation restoration offsets should be at a ratio of at least 4:1, and often much higher (Laitila, Moilanen, and Pouzols 2014)."*

A greater value of funding has been allocated for making offset land purchases in this Plan. The increase in value was determined by using a larger multiplier when calculating what will be offset, as explained in more detail below.

CALCULATION OF REVISED LAND ALLOCATION:

Manitoba Hydro is planning to adopt Sagkeeng's suggestion and proposes a multiplier of four (4) for calculating what will be offset in order to account for the above described unknown factors. The surface area under each of the 139 towers on Crown land traversed by the Project totals 24.1 ha. Using a multiplier of four to address the areas of uncertainty described above, the area of land to be offset would be increased to 96.4 ha. This area of land multiplied by current local land value in the relevant Area of Focus (96.4 x \$5,189/ha) results in a total of \$500,219 as the estimated cost to purchase an equivalent amount of land.

CONSULTATION ALLOCATION:

Manitoba Hydro understands there will also be costs associated with the review, and transfer of land parcels. As noted earlier, \$315,000 (21 communities x \$5,000/round x 3 rounds) will be added to the Trust for continued consultation on the land parcel selection and review process. It is not expected that all land parcels will be purchased at once; therefore, up to three rounds of review associated with the selection and purchase of land parcels is assumed. Based on Manitoba Hydro's past experience with community participation and costs related to engagement processes for the Project, at least three rounds of review by all communities can be supported with the current engagement budget.

ADMINISTRATION OF TRUST

An external trustee will be appointed to hold the Contribution and to disburse the Trust funds in accordance with the terms of the Trust. The terms of the Trust will be flexible to ensure that they are available on short notice for use in purchasing eligible parcels of offset land as they become available. Ensuring managerial and service fees of the Trust are kept to a minimum will be a factor in selecting a suitable trustee. The terms of the Trust will also provide that any disbursement of a portion of the Contribution will require the written approval of a designated Manitoba Hydro official, which will only be given if the proposed disbursement is in keeping with the Trust's terms and fulfillment of the Plan. The trustee will not be required to identify parcels of land or to hold title to those parcels which are selected.

Manitoba Hydro notes that its allocation of \$500,219 to the Trust for the purchase of private lands to offset for permanently lost Crown lands will be administered separately from the allocation to support community engagement on land parcel selections, reviews, and to cover administration costs associated with the process so as not to erode the amount of funds available for purchasing offset lands. Manitoba Hydro will seek further engagement on the administration of the Trust if the Trust allocation for purchasing offset land is not fully exhausted by the time 96.4 ha of land has been acquired, as outlined in more detail in 3.6 Monitoring & reporting.

The Trust will also support administrative costs associated with parcel purchase and transfer, such as costs associated with Phase 1 ESAs, title searches, managerial and service fees. These administrative costs will not erode the land acquisition or consultation funds but be in addition to these funds.

3.2 SELECTION OF ELIGIBLE OFFSET LAND

SELECTION CRITERIA

The criteria for guiding offset land parcel selection is set out below and was derived from feedback received through consultation on this Plan and from understandings shared throughout the Project record by Indigenous participants. The rationale for each selection criterion is provided in Table 1 below. A map of the area considered for parcel selection is shared in Map 2 (Area of Focus for Land Parcel Selection). Manitoba Hydro will continue to reach out to communities for input on land selection criteria and to better understand locations and criteria used to select lands of interest. Manitoba Hydro notes that only private land is eligible for consideration.

A key criterion used to guide parcel selection is ‘suitability for exercising Aboriginal and Treaty rights.’ Manitoba Hydro recognizes that this criterion is broad. Therefore, to aid in assessing this criterion, Table 2 below has been developed outlining characteristics that will be considered when considering land to purchase for offsetting effects related to the Project. The characteristics provided in Table 2 were drawn from consultation on this Plan and the Project record, including oral testimony, traditional knowledge studies and supporting studies. In many cases there were multiple examples that could be drawn from the record describing land characteristics suitable for practicing rights-based activities. One or two are provided as an example.

Table 1: Land criteria and rationale

Criterion	Rationale
1. Located in Area of Focus (see Map 2)	To focus offsets in undeveloped lands near the Project area within Manitoba.
2. Suitability for exercising Aboriginal and Treaty rights	As per consultation with Natural Resources Canada and conveyed by Indigenous communities. See Table 2 for preferred land characteristics shared by Indigenous communities found in the Project record and through consultation on this Plan.
3. Availability for fair market value	To ensure funds are spent effectively.
4. Future development plans in the area	To create positive outcomes for Indigenous communities by seeking input from other parties who may also have interests in adjacent lands.
5. Parcel not identified as part of TLE	To avoid potential conflicts with TLE fulfillment

Although Table 2 will act as a guide, Manitoba Hydro intends to work collaboratively with the MMTP Monitoring Committee to develop an overall approach for determining the lands to be purchased through the Plan. Accordingly, it is anticipated that further criteria may be identified as the process unfolds, and as further discussions take place to refine the selection criteria with the Committee and the proposed Cultural representatives. It is also feasible that the selected criteria may evolve over time as experience is gained with implementation of the CLOMP (e.g., some criteria or understandings may emerge as being of greater importance than initially anticipated). As part of discussions with the MMTP Monitoring Committee and guidance from cultural representatives, Manitoba Hydro will seek to understand if it is appropriate to adopt a formalized weighting system to prioritize the selection of land parcels on the basis of their

suitability for the exercise of traditional pursuits, or whether this will be deemed inappropriate by those involved in the land selection process.

Ideal parcels to purchase are anticipated to be those that most closely replicate the landscape of those lost as a result of the Project, and/or that provide similar opportunities for traditional pursuits. Therefore, prior to selecting land to be purchased, the intent is to work with the Cultural representatives to review the Crown lands taken up by the Project and to document how these lands supported the exercise of Indigenous and treaty rights and the characteristics of these lands that they view as most important to these pursuits – both tangible and intangible. These characteristics, and the activities they support, will be shared with the Committee.

It is fully anticipated that different communities may place different value and importance on different aspects of these land parcels. It is also likely that different land parcels will meet different aspects of the identified characteristics that have been lost as a result of Project development. The intent of the discussions with the Committee will be to have Cultural representatives (see Section 3.3) share outcomes from their review of the lands taken up by the Project, in particular the important characteristics of these lands deemed permanently lost, and discuss how decisions should be made when reviewing parcels for purchase. An outcome of the Committee meeting will be to determine if the land characteristics presented in Table 2 are sufficient, or if other characteristics should be considered such as any characteristics identified from the review of permanently lost lands, and how these characteristics should be applied when selecting candidate parcels to review. These discussions will also seek to map out a review process once Cultural representatives have completed their review of a candidate parcel (see Section 3.3).

It is envisioned that there will be a revised Table 2 following discussions with the Committee and direction provided from Cultural representatives on how decisions about land parcel selection should be made in a manner that is aligned with the purpose of this Plan.

Table 2: Land characteristics considered for offsetting

Characteristics of land considered suitable for exercising Aboriginal and Treaty Rights	Rationale
Land near a site identified in a self-directed study report completed for the Project	Many of the self-directed studies shared by Indigenous communities included sites where traditional activities take place. Sometimes general areas near the Project were described and sometimes specific locational information about where traditional activities take place were provided. For example, <i>during Peguis First Nation testimony A92340-1 NEB Transcript 18-06-06 -Volume 3-A6F0L5</i>

Characteristics of land considered suitable for exercising Aboriginal and Treaty Rights	Rationale
	<p><i>“A lot of our people live in southern Manitoba and they don’t travel to Peguis. They don’t travel north to Peguis to practise their traditional pursuits. They practise them here on the banks of these rivers, lakes, and streams, up in the forest areas of southern Manitoba. This is our traditional territory and it’s always been our traditional territory, and our people still practise their traditional pursuits within the confines of southern Manitoba and beyond.” P 622. Mike Sutherland, Peguis First Nation</i></p> <p>Then in Peguis First Nation’s draft report they state the following and provided mapping:</p> <p><i>“iii. Gathering: There is a cluster of data points in and near Roseau River First Nation reserve lands, a scattering of sights along highway 59 and a larger grouping around Woodridge in the Sandilands area, West of Watson WMA. Several sensitive gathering sites are found along the MMTP buffer for the proposed transmission line. Plants are the primary items that are gathered in these sites, many of them medicinal or for cultural purposes. Plants include cedar, ginger, yarrow, sage, sweet grass, Seneca root, yarrow and weekay.”</i></p> <p><i>“iv. Hunting: There is a cluster of hunting sites neat Ste. Anne Manitoba, another in the area of Woodridge and the path in between the two towns. There are also hunting sites further east. Several sensitive hunting sites are found along the proposed MMTP transmission line. ... Deer hunting in these areas is described as being a practice usually including family and friends. A location was identified from interviews for black bear hunting.”</i></p> <p><i>“v. Hunting birds: There are a few sites north of Ste. Anne and a cluster east of La Broquerie based on the interviews. Several sensitive bird-hunting sites are found along the MMTP proposed transmission line. Ducks and geese species were hunted, usually adjacent to rivers (e.g., Rat River, Seine River). Like deer hunting, bird hunting typically included family and friends”(PDF page 28-29)</i></p> <p>Similar information has been provided by other communities in their MMTP related testimony or studies</p>
Private land that is undeveloped or in a natural state	<p>Indigenous participants in the Project conveyed that land that is undeveloped is preferred over that which is developed for practicing traditional activities. For example, in the Metis Land Use and Occupancy Study the following was shared:</p> <p><i>“During the Survey, Participants were asked what conditions they preferred for harvesting. Participants and Respondents reported that they prefer it where it is quiet. Participants and Respondents also preferred it where they had past success; Participant M315 noted that “...you have to work hard because the game and that isn’t as plentiful.” Participants and Respondents also liked to harvest where there is no</i></p>

Characteristics of land considered suitable for exercising Aboriginal and Treaty Rights	Rationale
	<p><i>development and where there are no people” (Metis Land Use and Occupancy Study, PDF page 111)</i></p> <p>Similar information has been provided by other communities in their MMTP related testimony or studies</p>
<p>Private land that contains critical habitat or traditional plants</p>	<p>Many communities described site specific locations located on private lands in the area of focus for parcel selection (see Figure 2) that are suitable for practicing traditional activities. For example, in the Aboriginal Traditional Knowledge Study Community Report (Submitted jointly by Black River First Nation, Long Plain First Nation and Swan Lake First Nation) they indicated on page 16:</p> <ul style="list-style-type: none"> • <i>“The Marchand area has the Weke patch, cedar bog, abandoned town, and the harvesting areas need protection. The proposed transmission line has since been rerouted and will now avoid this area</i> • <i>...Asarum area is marsh bog with cedar/pine/boreal forest. Part of transition zone for tall grass prairie but contains species at risk. This area remains an area of concern.</i> • <i>Piney Area contains sensitive plants for cultural use, but this is a moot point since Manitoba Hydro decided to move the line 7 kms east of the inventory area. Evidence of moose habitat was found as well. Black ash was also found in the area. This area is near rare American anemone last seen 60 yrs. ago. near area where turtlehead snapdragon is found.”</i> <p>Similar information has been provided by other communities in their MMTP related testimony or studies</p>
<p>Large tracts of private land near existing Crown land is preferable to smaller parcels far from Crown land</p>	<p>Larger tracts of Crown land are preferable, so permission does not have to be granted to conduct traditional activities.</p> <p><i>“This makes the presence of Unoccupied Crown Land important. Unoccupied Crown Land represents areas where the Metis of Manitoba have access to exercise their Metis rights that does not require permission. On all other land types, the exercise of Metis rights can be restricted from time to time under certain circumstances.” (Metis Land Use and Occupancy Study PDF page 5)</i></p> <p><i>"In Manitoba, as of recently, we hunted, harvested, picked berries, worked in all of Southern Manitoba including in Winnipeg, out of Winnipeg and all the way to the Saskatchewan border into Saskatchewan. We harvested our food until private lands came up and reservation parks and so on".</i></p> <p>The clearing of land for agriculture and development has had the largest impact on Dakota Plains Wahpeton's traditional ways of life, and has raised concerns about the</p>

Characteristics of land considered suitable for exercising Aboriginal and Treaty Rights	Rationale
	<p>ability of their grandchildren to practice traditional activities, as expressed by an Elder in the following statement:</p> <p><i>"Yeah we've been through a lot of things but {development} is another thing, they pushing us this way and that way, I wonder and think about how we going to save, what am I going to do, thinking about my grandchildren and how are they going to make out. "</i> (Leslie Smoke, p.21 (Dakota Plains Wahpeton Nation , 2016)."</p> <p>Similar information has been provided by other communities in their MMTP related testimony or studies</p>
Other characteristics identified through engagement with Indigenous communities	
The MMF put forward the below criteria on August 24, 2020. Manitoba Hydro is currently undertaking a review to determine compatibility with existing criteria. ⁹	

SELECTION PROCESS

Manitoba Hydro will regularly search real estate listings to develop a list of potential offset lands eligible for this process. A list of private land parcels which, in Manitoba Hydro's view, meet the

⁹ The MMF has put forward the following suggested criteria for land parcel selection.

- Parcels of contiguous land should be preferred;
- Parcels abutting or adjoining Indian Act reserve lands or TLE selections of any First Nation should not be considered; and
- Parcels proposed by Indigenous communities should be an express consideration and included in Table 1 as a primary criterion not only a secondary consideration in Table 2.

"In addition to engaging in discussions with MMF about developing Metis-specific criteria/considerations to include in the CLOMP, the following characteristics should be modified:

- the criteria/characteristics should not be limited to only private land as Crown land being sold off by the province should also be considered eligible for inclusion;
- "undeveloped land" and "land that contains critical habitat or traditional plants" should be separated out from private land as these are distinct characteristics; and
- "land that contains critical habitat or traditional plants" should clarify that these are to support/related to the exercise of Aboriginal or Treaty rights to avoid this being interpreted as an environmental measure rather than to accommodate/offset impacts on Metis rights.

criteria outlined in Table 1 (as informed by Table 2) will be created, including information about the property. A description and map of potential parcels will be shared through a password-protected webpage¹⁰ located on the existing MMTP Monitoring Committee website and this same information will be shared by email for those communities who elect to have information sent directly to a representative. Parcel descriptions will be developed using both online information and from field visits coordinated by Manitoba Hydro with the opportunity for participation from representatives from the 21 communities. As parcels are suggested, the webpage will be updated to allow everyone to see the locations of all suggested parcels in real time.

Some communities have expressed interest in specific parcels. Should a community want to put forward a land parcel for consideration, it will be posted on the shared website as described above. The same review process described below in Section 3.3 will be followed for parcels put forward by communities. Parcels must have willing sellers and meet the criteria described in Table 1. Manitoba Hydro does not intend to develop a candidate site or make other site 'improvements' once purchased to address issues such as access that may change the value of the parcel to a community.

In response to concerns that have been expressed from communities who do not participate in the MMTP Monitoring Committee meetings about the use of the existing MMTP Monitoring Committee website, Manitoba Hydro clarifies that the website would merely be used as a platform to host this information. As it currently exists, the website can be accessed by anyone. Therefore, it is not a requirement that a community to be an active participant in the MMTP Monitoring Committee in order to participate in the offset land selection process. Also, to address this concern, a separate webpage will be developed on the website to which the above noted information will be added with emails being sent to all Indigenous communities to notify them of parcels to review along with the associated password.

3.3 ELIGIBLE PARCELS WILL BE REVIEWED BY COMMUNITIES AND MANITOBA HYDRO

Once a parcel is identified as eligible offset land, Cultural representatives will be asked to undertake a review of the parcel and an email will be sent to a mailing list that will include representatives from each of the 21 Indigenous communities and posted on the Monitoring Committee website. In order to accommodate potentially short windows to purchase available

¹⁰ This is to protect from unfair price escalations from sellers who may know their property is being considered for purchase.

parcels of land, communities will initially have seven days to comment on the proposed parcel(s). As experience with this process is gained, the review period may be lengthened if the real estate market allows. It is hoped that having the criteria for selection already established will assist in minimizing the length of time required for comment by communities. A tour date of proposed sites will also be posted.

The review provide by the Cultural representatives may include a written narrative of how the candidate parcel supports (or doesn't support) the exercise of Indigenous and treaty rights (e.g., hunting, berry-picking, spiritual connections) and the characteristics of these lands that they view as most important to these pursuits – both tangible (e.g., nature of the vegetation) and intangible (e.g., spiritual quality). The Cultural representative may include a comparison of the parcel to the characteristics outlined in Table 2, but is not bound by those characteristics. Photos and audio recordings may be taken at the discretion of the Cultural representative. As the review time for parcels that come available may be short, Manitoba Hydro will work with communities to appoint appropriate Cultural representatives before this Plan is implemented. Funding two Dakota, two Anishinaabe and two Metis Cultural representatives for parcel review through an honorarium process and be drawn from the consultation allocation in the Trust. These representatives would also be asked to participate in monitoring endeavours described in Section 3.6 of this Plan.

Manitoba Hydro will work with Cultural representatives to coordinate in-person tours of eligible parcels. Tours will be organized in a manner that is consistent with the timeframes associated with sale of specific parcels, and which adheres to the public health guidelines in place at the time. This may include virtual tours through the sharing of photos and video on the website to accommodate tight timeframes, safety, or for those unable to attend in person tours. Cultural representatives will be asked to make a recommendation on the value of each parcel to their community.

Comments from individual communities and the reviews prepared by Cultural representatives will be shared on the website visible to all communities. Parcels which may be under consideration for TLE by individual communities will not be purchased. There may also be other concerns shared, and these will be considered on a case by case basis in discussion with communities.

Manitoba Hydro understands that the review of land parcels and tours will take time and consideration. Communities will be sent a website password and dates when parcels will be put forward for consideration¹¹. Each time land parcels are considered for purchase; communities

¹¹ Manitoba Hydro intends to add a page to the MMTP Monitoring Committee web page at: www.mmtpmonitoring.com entitled 'Parcel Review'.

will be eligible for reasonable reimbursement from the Trust for their time reviewing potential land purchases consistent with the Manitoba Hydro Reimbursement Policy (the Policy). There may be multiple parcels that communities are asked to review at any one time. Manitoba Hydro will reimburse reasonable costs to support individual communities to review lands each time a parcel or set of parcels are placed on the website for review.

During this review period Manitoba Hydro will also seek input from municipalities regarding parcels being contemplated for purchase. Any future development plans by the affected municipality will be reviewed to ensure that these plans will not detract from the suitability of the land for exercising traditional rights in the future. Manitoba Hydro clarifies that this step is not intended to give municipalities a veto right over the selection of eligible offset lands.

Eligible offset lands will also undergo:

- a title search; and
- a Phase I Environmental Site Assessment (ESA).

The title search will reveal existing encumbrances, mines and minerals ownership and any other third-party registered interests in the parcel. Should the property satisfy the requirements of a Phase I ESA, have no unacceptable encumbrances, and no third-party mineral claims or interests, the parcel will be considered eligible for purchase through the Trust. As mineral rights may transact separately from surface rights, Manitoba Hydro will endeavour to secure all parcel interests where mines and minerals are not already reserved for the Crown. Expenses to conduct the above investigations will be drawn from the Trust (see Section 3.1).

Manitoba Hydro envisions a sample land review process of candidate parcels to proceed as follows:

1. A parcel is selected by either Manitoba Hydro or a community;
2. Cultural representatives will have the opportunity to review and provide their recommendation;
3. The candidate parcel and recommendation from the Cultural representatives will be circulated to communities for comment with prescribed timelines based on the window available for purchase; This will occur concurrently with the Manitoba Hydro review process outlined above;
4. Based on the feedback received, a decision will be made by Manitoba Hydro about whether to purchase the land. Efforts will be made to define with the Committee in advance (as part of criteria review) how feedback will be addressed if it is not unanimous, so that the process is not stalled. Generally, it is expected that if there is strong support

among a majority of those who respond, the decision will be made to proceed. If there is mixed feedback, or strong opposition from a small number of communities, additional efforts will be made to discuss and to attempt to arrive at more of a consensus on how to move forward. Some of these concerns may be addressed through subsequent parcel selections. If the majority of feedback is in opposition, the purchase will not move forward.

5. If, at the end of two years no parcels have been purchased, Manitoba Hydro will revisit this method in consultation with the Committee.

Following the collaborative process to review and select parcels, in the interests of certainty and efficiency of process, Manitoba Hydro will make the final decision regarding which parcels of land to purchase. When making the final decision, Manitoba Hydro will consider how closely a particular parcel of land meets the criteria outlined in Table 1 and the updated Table 2 as well as any concerns and feedback from Indigenous communities and input from municipalities. For each parcel of land under consideration, Manitoba Hydro's experience to date in the process with respect to the overall availability and quality of land for purchase will also be taken into consideration.

3.4 MANITOBA HYDRO WILL ACQUIRE OFFSET LANDS OVER TIME

Manitoba Hydro will offer to purchase offset land parcels that have been selected using the criteria and process described above, subject to all necessary reviews being completed. Parcels will be purchased by drawing the purchase price and expenses for which a purchaser is responsible from the Trust through appropriate notice to the Trustee of the Trust. Once one land purchase is completed, Manitoba Hydro will seek feedback from communities to ask for suggestions on process improvements. Adjustments to the Plan's implementation, subject to any necessary regulatory approvals, will be reviewed according to feedback received.

Land parcel selections will continue to be reviewed and purchased until the minimum target of 96.4 ha of offset land is reached. Manitoba Hydro anticipates the implementation of the Final Plan to occur over a period of five years.

3.5 PURCHASED LANDS WILL BE CONVERTED TO CROWN LANDS

Manitoba Hydro proposes that parcels purchased would be transferred to the Province of Manitoba pursuant to a Memorandum of Agreement (MOA) which would require the Province to withdraw the lands from disposition pursuant to s. 5(1) of The Crown Lands Act. As of the date

of this Plan, the parties have not entered into this arrangement, but have been negotiating an MOA that, in Manitoba Hydro's view, is close to completion.

Under the proposed arrangement, Manitoba would acquire the purchased parcels from Manitoba Hydro for a nominal fee (\$1) under s. 5(1)(c) of The Crown Lands Act. Manitoba Hydro would prepare and provide transfer documents to Manitoba, and Manitoba would accept the parcels by Order-in-Council, which would enable Manitoba to withdraw the lands from future disposition at the same time. The land will be managed by the Province similar to other undeveloped Crown lands. There will be no development on the land by any party, including Indigenous communities. Manitoba Hydro intends the MOA to protect against the risk of the Province disposing of the newly acquired offset lands and to provide a remedy in the event of such disposition (see Appendix C for draft MOA and letter of support from Manitoba).

Manitoba Hydro's costs associated with the acquisition of offset lands, ownership of the offset lands prior to transfer to the Crown and their subsequent disposition to the Crown (including inspection, transfer taxes, adjustments for realty taxes and the like) will be drawn from the Trust.

3.6 MONITORING & REPORTING

MONITORING

Once the purchased lands are transferred to the Province and designated as Crown lands, the management and control of these offset lands will be outside of Manitoba Hydro's purview. It is Manitoba Hydro's understanding that once the parcels are converted to Crown Land, the lands would fall under Provincial responsibility and would be managed in a similar manner to existing undeveloped Crown land. Therefore, Manitoba Hydro has established a plan for monitoring this offset Plan that is specific, short-term and achievable within the projected five-year timeframe of the Plan. Manitoba Hydro commits to monitoring parcels for an additional two years from the point of when all funds are spent, and all land is acquired. For example, should offset lands be purchased in the fifth and final year, Manitoba Hydro will continue its monitoring program for an additional two years (total of seven years).

Manitoba Hydro will review and monitor as described below. Manitoba Hydro recognizes that a Crown land offset plan such as this has not yet been implemented in Manitoba. Accordingly, Manitoba Hydro will engage with communities in order to improve the process, subject to any necessary regulatory approvals, and gauge the overall effectiveness of the offset parcels in meeting the intent of the Plan as follows:

1. Process Review - if, at the end of two years no parcels have been purchased, Manitoba Hydro will revisit this method in consultation with the Committee.
2. Monitoring of Plan implementation - Once one land purchase is completed, Manitoba Hydro will seek improvements on the process by asking Indigenous communities
 - About process improvements – how can the land parcel selection and purchase process be improved?
 - About criteria used to make selections – are there other and different criteria that should be considered?
3. Monitoring of the effectiveness of the new parcels of land - Two years after all land has been purchased, Manitoba Hydro will seek feedback from the Cultural representatives asked to participate in parcel review. The Cultural representatives will be asked to canvas resource users and ask if new parcels have been used as anticipated. Should use be less than expected, Manitoba Hydro will seek recommendations from the Cultural representatives. It may take more time for resource users to become familiar with new lands and information may be needed to better inform potential users. Manitoba Hydro will work with representatives to develop a strategy to resolve concerns.
4. Once all funds are spent and land is acquired, a map will be created outlining the location of new lands acquired through this process. Manitoba Hydro will work with Cultural representatives to create a summary of these new areas that describes land characteristics and potential resources on the land. This information will be shared with Anishinaabe, Dakota, and Metis communities as appropriate.
5. Manitoba Hydro will seek further engagement on the administration of the Trust if the Trust allocation for purchasing offset land is not fully exhausted by the time 96.4 ha of land has been acquired. If the surplus is sufficient to make another land purchase, Manitoba Hydro will purchase more land, taking into consideration the effectiveness of previous purchases based on monitoring. If the surplus is too small to make a further land purchase, Manitoba Hydro will engage with communities to consider whether there are other ways of allocating remaining funds that are consistent with the purposes of the Trust (such as promoting use of offset parcels within Indigenous communities).

REPORTING

Manitoba Hydro will report on the offset process annually in the form of an update letter to be shared with communities and posted on the same website where potential parcels of land are posted. The update will include:

- Information from purchasing activities conducted that year and any monitoring activities conducted that same year.
- Use of funds from the Trust, including the value dedicated to parcel review, purchase and administration of the Trust.

After funds have been spent a final report will be prepared and sent to communities and posted on the website.

4. SUMMARY OF CONSULTATIONS, FEEDBACK, AND RESPONSES

4.1 SEEKING FEEDBACK FROM INDIGENOUS COMMUNITIES ON THE NOVEMBER 2019 DRAFT PLAN

Manitoba Hydro shared a draft [Crown Land Offset Measures Plan](#) with Indigenous communities on November 26, 2019. Manitoba Hydro reached out to all 21 communities included in the MMTP Monitoring Committee to request review of the draft offset plans for both Condition 22 and 26 (see list in Appendix B: Summary of Manitoba Hydro's fulfilment of consultation requirements). Both draft plans were posted online and a link to these online plans was included in the email. A [summary document](#) was also prepared with visuals and a description of the proposed approach provided in non-technical language. Over the following four months (December 2019 to March 2020) Manitoba Hydro sought feedback through a variety of mechanisms, including through letters, phone calls and email, through the MMTP Monitoring Committee and through in person meetings (details are provided in Appendix C).

The November 2019 draft plan proposed that funds would be provided to the Province of Manitoba to acquire land which would then be protected through a conservation entity, such as a conservation agreement agency like the Manitoba Habitat Heritage Corporation. The November 2019 draft plan considered only the area of land at the transmission tower locations as lands permanently unavailable for traditional use. The surface area under each of the 139 towers that traversed Crown land was added, then multiplied by the highest arable agricultural land easement rate of approximately \$13,400 per ha, which resulted in a payment to the Province of roughly \$323,000.

Appendix C documents the concerns regarding the draft plan shared in November of 2019. This feedback from individual Indigenous communities is summarized below.

Animakee Wa Zhing #37

- Requested funding to support consultation on the November 2019 plan
- Indicated there was no payment being made to First Nations
- Noted there were concerns with the proposed process going through the Province of Manitoba to enable land acquisition.

Dakota Tipi First Nation

- Shared that more time and funding were needed to fully consider the information presented.
- Noted that there were concerns with the proposed process going through the Province of Manitoba to enable land acquisition.

Long Plain First Nation

- Expressed concerns with the way in which permanent loss is defined by Manitoba Hydro.
- Shared that the total compensation value is not high enough.
- Noted concerns with the proposed process going through the Province of Manitoba to enable land acquisition.
- Shared concerns related to the small amount of Crown land available in southern Manitoba.

Manitoba Metis Federation

- Shared that the discussion of Crown land offsets should be held with leadership, not the MMTP Monitoring Committee.
- Noted issues with the way in which permanent loss is defined by Manitoba Hydro.
- Shared its view that there was no consultation with the MMF regarding the draft offset plans.
- Noted the proposed measure to offset permanent loss of Crown land is unenforceable and does not, in their opinion, address 3 of the 7 Condition requirements.

Peguis First Nation

- Shared that more time and funding were needed to fully consider the information presented.
- Suggested revising the approach to offsetting to include community input and guidance in land purchases to address concerns related to TLE.
- Expressed concerns with the way in which permanent loss is defined by Manitoba Hydro.
- Noted concerns with the proposed process going through the Province of Manitoba to enable land acquisition.

Sagkeeng First Nation

- Noted that the discussion of Crown land offsets should be held with leadership, not the MMTP Monitoring Committee.
- Expressed concerns with the lack of Indigenous engagement and participation.

- Expressed that there is an underestimation of residual project effects leading to inadequate offsetting area calculation.
- Noted inappropriate offset measures.
- Shared that the plan lacked critical details that were required for Sagkeeng’s future consideration, such as the identification of offsetting locations and methods, and detailed plans to support the meaningful engagement and participation of Indigenous nations.
- Shared that there was an absence of a monitoring regime and adaptive management approach such that Sagkeeng cannot be confident that the offsetting measures will in fact produce the desired ecological and cultural outcomes.

Swan Lake First Nation

- Noted that more time and funding were needed to fully consider the information presented.
- Expressed concerns with the way permanent loss is defined and that it should include the entire right-of-way.
- Noted concerns with the proposed process going through the Province of Manitoba to enable land acquisition.

4.2 GOVERNMENT CONSULTATION ON THE NOVEMBER 2019 DRAFT PLAN

Manitoba Hydro also consulted with relevant provincial and federal authorities regarding the draft plan, including the following federal government departments: Natural Resources Canada, Indigenous and Northern Affairs Canada and Environment and Climate Change Canada; and the following provincial government department: Manitoba Agriculture and Resource Development. The following summarizes the feedback from provincial and federal authorities on the draft plan:

- Natural Resources Canada commented on January 10, 2020 that they expect that *“lands acquired to comply with Condition 22 will be suitable for the exercise of potentially impacted Indigenous groups Aboriginal and Treaty rights”*.
- Manitoba Agriculture and Resource Development supported the draft plan in its March 5, 2020 letter.

4.3 RESPONDING TO FEEDBACK ON THE NOVEMBER 2019 DRAFT PLAN

Manitoba Hydro was responsive to initial feedback on the November 2019 draft plan by:

- requesting more time from the Canada Energy Regulator to conduct consultation with impacted Indigenous communities (Refer to the Manitoba Hydro letter to the Canada Energy Regulator at the following link [C04289-1](#));
- confirming that future engagement on draft offset plans will occur directly with individual communities (including all members of the MMTP Monitoring Committee);
- offering funding to support review of documents related to Condition 22;
- revising the approach to offsetting to include community input in land purchases to address concerns related to TLE;
- including a multiplier to account for uncertainty in the ability of new parcels to support traditional activities;
- maintaining aspects of the plan that focused on acquiring land suitable for the exercise of potentially impacted Indigenous groups' Aboriginal and Treaty rights;
- adding a process for Indigenous communities to submit parcels for inclusion in the process themselves;
- including a monitoring process; and,
- revising the approach to acquiring land for offsetting purposes to not rely on the Province for securing land parcels. This change is described more fully below.

As a result of feedback from Indigenous communities on the November 2019 initial draft Plan, Manitoba Hydro rethought its proposed plan and began developing a revised draft plan involving a written arrangement with Manitoba to create additional Provincial Crown land. Manitoba Hydro entered into negotiations with the Province to outline the provisions of a written arrangement between Manitoba Hydro and the Province of Manitoba aimed at providing more certainty regarding the long-term benefits of the offset land to communities.

Manitoba Hydro shared an outline of this proposed new approach to meeting Condition 22 with Indigenous communities and government departments in a plain language document termed the 'Summary Approach' in emails shared between June 5th and 9th, 2020. The intent of sharing an outline, rather than a completed plan, was to seek an understanding of concerns or preferences on this new direction.

Manitoba Hydro offered communities other opportunities and related funding support for their review of the Summary Approach. Manitoba Hydro hosted an online Discussion Forum on June 17, 2020 where Manitoba Hydro shared a PowerPoint presentation of the new approach online, asked and answered questions, and sought input on the draft criteria put forward for making land selections. Following this a document entitled 'draft final CLOMP' was shared with

Indigenous communities on July 29, 2020 for their review and comment to which funding was also provided to support this review.

Figure 2 provides an illustration of the consultation process. Appendices B and C provide detail on the communications related to consultation on Condition 22, the feedback provided by Indigenous communities and government agencies and Manitoba Hydro’s response to that feedback.

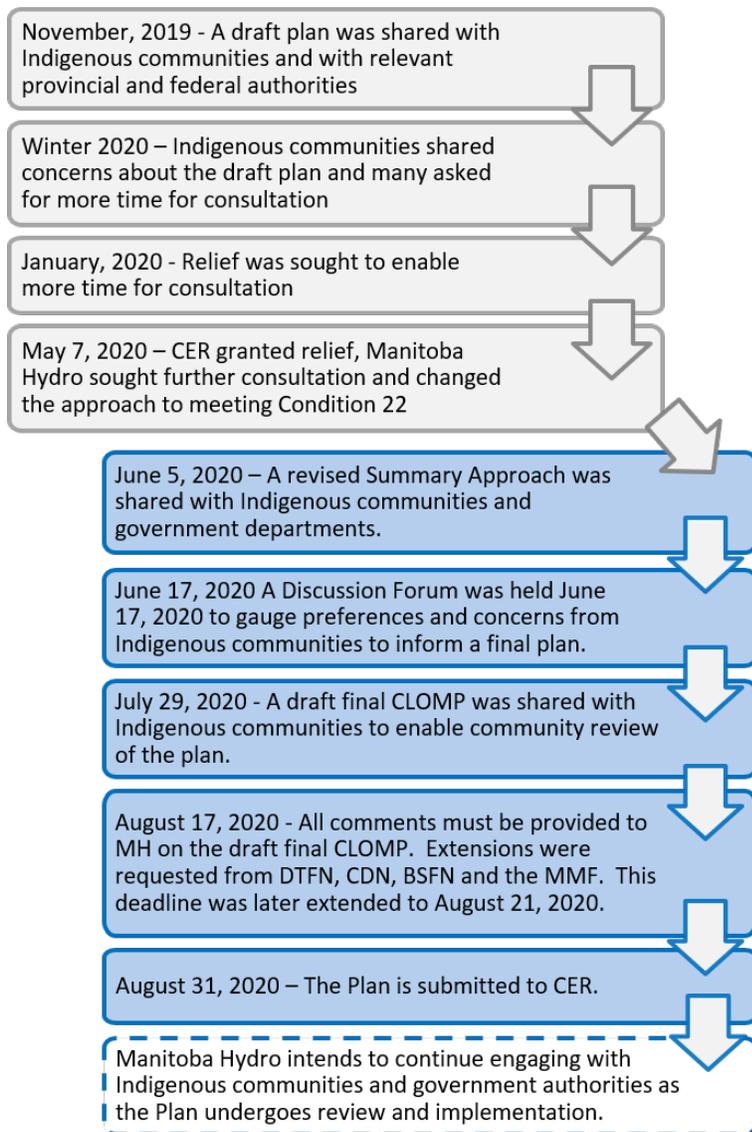


Figure 2: Illustration of consultation process for Condition 22

4.4 SEEKING FEEDBACK FROM INDIGENOUS COMMUNITIES ON THE SUMMARY APPROACH AND DRAFT FINAL CLOMP

Feedback from Indigenous communities received on the Summary Approach, during the Discussion Forum and on the draft final Plan is summarized below. Specific feedback and Manitoba Hydro responses are provided in Appendix C.

Dakota Communities

- Manitoba Hydro reduced travel to communities during the COVID-19 pandemic for public health reasons. Most discussions related to Condition 22 were held online. Elders from some Dakota communities found online methods of communication challenging. Dakota communities including Birdtail Sioux First Nation, Canupawakpa Dakota Nation and Dakota Tipi First Nation asked for a Dakota liaison to coordinate consultation on Condition 22. Manitoba Hydro supported Darryl Taylor, a Dakota-speaking representative from Dakota Tipi First Nation to act in that role. Mr. Taylor is considered a Knowledge Keeper/Wawokiya (Helper) amongst the Dakota. He was also one of the key leads in the Pipe Ceremony held to initiate Project construction and was the Communications Monitor for the MMTP Monitoring Committee during Project construction. Mr. Taylor asked Manitoba Hydro for a plain language presentation and description of the draft Final CLOMP. Please see Appendix C for this presentation.

Canupawakpa Dakota Nation

- Shared that they wanted to be represented in the decisions in the draft plan to allocate resources for purchasing Crown land to mitigate the land used for this project.
- Noted the importance of land in the vicinity of Canupawakpa Dakota Nation for future use in areas of land-based education, traditional harvesting, and food sustainability for future generations and suggested that offset lands be allocated in the vicinity of the community.
- Recommended using the Berger Formula to allocate resources to each community participating in MMTP to acquire land and that monies not spent on consultation be dedicated to acquiring more land.

Dakota Tipi First Nation

- Shared that they are one of nine Dakota Nations in Canada, that they haven't entered into or signed Treaty with the government of Canada and therefore have not ceded their territory, and that there are portions of Manitoba, Saskatchewan and Alberta that are still

considered Dakota Traditional Territory (see specific wording provided in letter found in Appendix C).

- Shared they support the process being proposed in the CLOMP.
- Noted that there are specific parcels of lands located outside the Area of Focus that they would like considered as parcels for purchase through this plan.

Manitoba Metis Federation

- Shared that there were still unaddressed issues they relayed in their comments on the November 2019 draft and that these related to inadequate consultation on the draft documents related to Condition 22.
- Noted that outstanding issues and unaddressed questions remain regarding the ultimate effectiveness, implementation, and enforceability of the Draft Offset Plan, as an accommodation measure that addresses impacts of the MMTP on Métis rights.
- Shared concerns with the way in which permanent loss is defined by Manitoba Hydro.
- Noted that the draft final CLOMP outlines a process that is principally directed by Manitoba Hydro, rather than one that is collaboratively developed in partnership with the Indigenous communities.
- Expressed the view that the funding, timelines, and process outlined in the Condition 22 Crown Land are inadequate and insufficient to support the MMF's meaningful involvement in selecting/reviewing proposed offset land parcels and provides no decision-making role for the MMF.
- Share that the funding allocation is insufficient and that the option of compensation as an offset measure was disregarded by Manitoba Hydro.
- Shared the concern that non-Indigenous hunters and other land users will access and use offset land, adding pressure on Indigenous land users, particularly as the land within the Area of Focus is largely non-contiguous.
- Shared that Metis-specific criteria should be applied to the selection of land parcels to allow for the consideration of the distinct rights and interests of the Manitoba Métis Community.

Sagkeeng First Nation

- Shared that the way in which permanent loss is defined by Manitoba Hydro is inadequate.
- Shared that there was insufficient community consultation, where: Sagkeeng expressed they had concerns arise due to the lack of baseline data from a Traditional Land and Resource Use Study; insufficient community engagement in criteria development for the identification of potential land parcels; insufficient provision of time and resources for

community input in parcel selection; and the lack of Indigenous representation in the decision-making process.

- Shared that Sagkeeng-specific criteria should be applied to the selection of land parcels.

4.5 GOVERNMENT CONSULTATION ON THE DRAFT FINAL CLOMP

Feedback provided by federal and provincial government authorities on the Summary Approach and on the draft final Plan is summarized below. Details of this feedback are provided in Appendix C. Government authorities were not invited to participate in the Discussion Forum.

- Natural Resources Canada provided a letter on July 30, 2020 that reiterated the comments on January 10, 2020 where they stated *“NRCan’s views remain the same as outlined in its January 10, 2020 letter. Specifically, that the Government of Canada is relying on Manitoba Hydro’s compliance with Canada Energy Regulator (CER) Condition 22 to accommodate potential impacts to Indigenous groups’ Aboriginal and Treaty Rights and that the CER will determine whether Manitoba Hydro’s revised Crown Land Offset Measures Plan complies with the criteria set out in Condition 22. NRCan also expects that lands acquired to comply with Condition 22 will be suitable for the exercise of potentially impacted Indigenous groups’ Aboriginal and Treaty rights.”*
- Manitoba Agriculture and Resource Development support the Plan as documented in its March 5, 2020 letter (See Appendix C). Manitoba and Manitoba Hydro are finalizing wording in a Memorandum of Agreement to enable implementation of this Plan.

4.6 RESPONDING TO FEEDBACK ON THE SUMMARY APPROACH AND DRAFT FINAL CLOMP

Manitoba Hydro is providing responses to many of the issues raised by those groups commenting on the draft final CLOMP in Appendix C. As many of the comments were received shortly before this filing was submitted, some communities may be seeing these comments for the first time.

Manitoba Hydro was responsive to many of the concerns raised in the feedback on the Summary Approach, the Discussion Forum and the draft final CLOMP through the following:

- Providing financial support for consultation to every community who provided a written request for funding related to the review and development of the Plan;
- Tailoring Manitoba Hydro’s consultation to the preferred method of communication of the communities being consulted and creating multiple platforms and tools for engagement on draft documents related to the Plan, including: phone calls, emails,

letters, online meetings and conference calls, collaborative discussions during a Discussion Forum, plain language materials and funding a Dakota liaison to coordinate communications with Dakota communities;

- Continuing to accept input on community-specific criteria for land parcel selection;
- Amending the land selection and monitoring program to gauge the overall effectiveness of the offset lands in supporting traditional use from a cultural values perspective; and,
- Supporting Anishinaabe, Dakota and Metis Cultural representatives as they evaluate and monitor traditional pursuits on newly created Crown land.

5. EFFECTIVENESS OF THIS PLAN

When developing the Plan outlining how permanent loss of Crown lands available for traditional use by Indigenous Peoples resulting from the Project would be offset or compensated, Manitoba Hydro considered the following core issues in the context of effectiveness:

- whether an offset plan should focus on land offsets or provide compensation for the permanent loss of Crown lands available for traditional use; and
- if land offsets are the preferred approach, what is the most appropriate mechanism for selecting and securing land parcels for this purpose.

How these considerations shaped this Plan is described in more detail below.

5.1 EFFECTIVENESS OF LAND OFFSETS VERSUS COMPENSATION

When revisiting the Plan Manitoba Hydro considered if purchasing land offsets or if providing monetary compensation would be more effective. As part of Conditions 22, Manitoba Hydro must provide an ‘...*explanation of the expected effectiveness of each offset measure described in b) for each Indigenous community*’ (EC-059). Manitoba Hydro reviewed what it heard previously to look for preferences shared by Indigenous community representatives regarding Crown land and considered how some types of mitigation are regarded as more effective than others under environmental assessment principles.

Manitoba Hydro heard throughout Project engagement that lands available for practicing rights-based activities is limited in southern Manitoba

“I would like to say that we are going to push for a zero loss. If you take an acre, we would like to see that acre replaced. Replace even more -- two acres, three acres, four acres, five acres -- I don't know how we want to explain that, but I think here, down in the south, we need to take these types of approaches, because when Na-sha-ke-penais sat down and signed his X for Treaty, he sat down and signed with the spirit of sharing, with the consideration of well-being of the immigrants that would come here and take up residence within our territory. But what is happening now, with the continual coming and taking of land for the benefit of one group of people, without meaningful benefit to my community or communities like mine, then that's what we call stealing.” (Gord Bluesky. Page 3060. May 29, 2017. Volume 13. MMTP Clean Environment Commission Hearing Transcript)

These understandings shared during Project review indicate the importance of replacing land. Peguis First Nation shared:

“And what makes us fundamentally Anishinaabe or Nêhiyawak, what makes us Anishinaabe or Cree as we are a community that is created out of that combination of peoples.

Our relationship with our land is really what we are talking about today in all of these different testimonies that you're being presented with. They are fundamental to our identity and, most importantly, they are how we live. By putting these things at peril, it is ultimately putting Peguis First Nation under threat.” (Dr. Niigaan Sinclair, 502-503 PDF Page 32 June 6, 2018 [Volume 3 NEB hearing transcript](#))

The ‘Mitigation Hierarchy’ is a key principle used in environmental assessment that provides an ordered approach for addressing potential environmental impacts. This hierarchy of approaches, in descending order of preference, is generally: avoidance, on-site minimization or mitigation, rehabilitation or restoration, offsetting and finally compensation^[1]. Essentially this means that avoiding adverse effects altogether is better than minimizing them, minimizing effects is better than rehabilitation, restoration or offsetting and all these measures are better than providing compensation. The mitigation hierarchy discourages the use of compensation as it is viewed as a way for proponents to purchase a license to damage the environment.

Manitoba Hydro contemplated compensation to individual communities initially and considered it less effective as a mechanism for the reasons described above. In addition, allocating funds to spend on purchasing offset lands results in an outcome that more closely mitigates for Project effects. Newly established Crown lands will create areas of land that can be used by Indigenous peoples for traditional use. In contrast to monetary compensation, the benefit of these newly created Crown lands is expected to last in perpetuity. This accomplishes the goal of placing Indigenous communities in as comparable position as possible to their situation prior to MMTP.

^[1] Driedzic, 2016. Buying a better environment?: Market-based instruments & the Alberta Land Stewardship Act; [Volume 3](#)

5.2 EFFECTIVENESS OF MECHANISM FOR SELECTING AND SECURING OFFSET LAND

There are a variety of mechanisms that can be used to select offset land parcels that span a spectrum of involvement ranging from Manitoba Hydro unilaterally selecting parcels to appointing a committee made of up of Indigenous communities to undertake this work. Manitoba Hydro considered the following understandings when revising the Plan:

- Manitoba Hydro is ultimately responsible for implementation of the Plan as a regulatory obligation; therefore, relying completely on external bodies to fulfil the Plan or consensus models of decision making introduces risks
- Some Indigenous communities want to identify and review land selections
- Land preferences vary between the 21 communities involved in MMTP
- Some communities have specific parcels they've identified as preferable for offsetting that are not in the Area of Focus (Map 2)
- Schedules and priorities vary between the 21 communities involved in MMTP

The November 2019 draft plan included a process where Manitoba Hydro would provide funds to the Province of Manitoba or designated agency (such as the Manitoba Habitat Heritage Corporation (MHHC)) to make land selections following criteria set out by the MMTP Monitoring Committee. Many community representatives had not heard of the MHHC and they shared concerns that as a provincial Crown corporation, MHHC may have less ability to protect lands in the long term.

The Plan outlines a mechanism for the selection of offset land that is effective in striking a balance between the certainty Manitoba Hydro requires to be compliant with regulatory obligations and being inclusive of preferences shared by Indigenous communities. Under the revised Plan, Manitoba Hydro is responsible for identifying eligible parcels of offset land in collaboration with Indigenous communities.

The mechanism proposed for securing the offset land and converting the land to Provincial Crown land is consistent with provincial Crown lands legislation. Therefore, the proposed mechanism is effective in achieving the purpose of creating additional Crown land. Since the offset land that is designated for traditional use will be available to all potentially impacted communities, Manitoba Hydro expects that the Plan will be equally effective for each community.

6. DECISION-MAKING CRITERIA

Condition 22 of the Certificate for MMTP requires the Plan to include *“the decision-making criteria for selecting specific offset measures that would be used and under what circumstances”*. While Manitoba Hydro’s proposed Plan outlines only one general type of offset measure (the acquisition of private land for conversion to Provincial Crown lands), each acquisition and conversion of a specific land parcel can be considered a “specific measure” within the meaning of Condition 22. The selection criteria for the offset lands and how the criteria were developed are described in section 3.2 of the Plan. These criteria are intended to be used for each parcel selection.

In response to the concern raised by the Manitoba Metis Federation that Manitoba Hydro has not proposed alternative types of offset/compensation measures and associated selection criteria, Manitoba Hydro clarifies that it does not interpret the condition as including such a requirement. Manitoba Hydro believes that the wording of the condition should be interpreted consistent with its purpose. In developing its Plan, Manitoba Hydro focused on the best means of achieving the purpose of the Plan, which in the case of MMTP is to compensate for the loss of permanent Provincial Crown land that has been used by various Indigenous communities to a similar extent for the exercise of traditional rights. In Manitoba Hydro’s view, the most effective means of addressing this loss is to create more Provincial Crown land that is suitable for use by all impacted Indigenous communities. Should funds instead be provided to individual communities, lands may not be converted to Provincial Crown and therefore be inconsistent with the purpose of this Plan, which is to address the permanent loss of Crown lands available for traditional use by Indigenous Peoples resulting from the Project. Manitoba Hydro has also applied other measures aimed at addressing impacts to Crown lands described further in Appendix D.

7. SCHEDULE

Manitoba Hydro expects to complete all measures described in this Plan within five years from the date a signed agreement is executed with the Province of Manitoba.

8. NEXT STEPS

Manitoba Hydro is submitting this Plan in compliance with Condition 22 of the National Energy Board's ("NEB") Certificate of Public Convenience and Necessity EC-059. This Plan has evolved based on feedback received on the draft plan shared on November 26, 2019 and through consultations on the Summary Approach. Some of the 21 communities invited to engage on the draft final CLOMP have not provided comments and some may have further concerns on this Plan (see comments in Appendix C).

There may be a variety of reasons why a community may choose not to comment, including focusing on other priorities such as managing issues related to COVID-19. Given these unusual circumstances, Manitoba Hydro continues to reach out to communities to confirm that it remains committed to seeking input from potentially impacted Indigenous communities regarding this Plan and is open to appropriate, safe engagement where possible.

Recognizing that the approach described in this Plan for offsetting permanently lost Crown land is new and untested in Manitoba, Manitoba Hydro intends to seek feedback to work to improve the process, subject to any necessary regulatory approvals. After making a land parcel purchase Manitoba Hydro will conduct a round of engagement with communities to understand how the process can be improved while maintaining the core aspects of the Plan.

Manitoba Hydro will continue to share land parcel announcements as they arise with all communities and will accept comments and adjust aspects of the Plan based on community feedback received, where appropriate. There may be improvements and efficiencies that can be realized as the Plan is implemented; however, core aspects of the Plan will remain consistent including:

- an offset Plan that focuses on land offsets rather than providing compensation for the permanent loss of Crown lands available for traditional use;
- the original criteria used to make selections;
- the mechanism for selecting and securing land parcels for offset; and
- the total area of land acquired through the Trust will be four times greater than the area permanently lost under the transmission towers.

The addition of Crown land resulting from the implementation of this Plan will act to offset the loss of Crown lands available for traditional use by Indigenous Peoples resulting from the Project.

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Map 1: Transmission Infrastructure Intersecting Crown Lands

A description of site-specific details and maps showing the locations where Crown land is no longer available for traditional use because of the Project

Structure Number(s)	Land Use Description (MB Land Classification in brackets)
29-34	Towers 29-34 run from Saskatchewan Avenue to the TransCanada Highway. They are in an existing transmission corridor (south loop transmission corridor) that currently has one other existing transmission line and will have several more planned in the future. Land use is agricultural cropland.
120-165	Towers 120-165 follow the outer edge of the Red River floodway. The land in the area is generally maintained grassland or used for hay. Towers 160-165 cross over/adjacent to retention ponds (range and grassland).
248	Tower 248 is within a small parcel of crown land that is forested (deciduous forest). It parallels an existing transmission line and is adjacent to a quarry.
293-294	Towers 293-294 run through deciduous forest, parallel to an existing line (cleared) and adjacent to an existing substation (deciduous forest).
298-302	Tower 298 is located in an open area with sparse shrubs (range and grassland). Tower 299 is located in an open forested area, with sparse deciduous trees (open deciduous). Towers 300-302 are situated in a denser deciduous forest (deciduous forest).
345-348	Towers 345-348 are located in an open deciduous forest adjacent to forage fields (deciduous/open deciduous), with some open wetland areas.
366-368	Towers 366-368 are situated in a sparsely treed deciduous forest (wetland/ open deciduous/deciduous forest).
391 - 394	Towers 391-394 are in sparsely treed scrubland with a mix of deciduous and coniferous trees and open grassed areas (deciduous/coniferous).
395-408	Towers 395-408 are in a densely forested area, with a mix of deciduous and coniferous forest. There are some open grassland areas and small wetland patches (coniferous/mixedwood/deciduous/wetland [treed bog]). There is little development on the area.
413-420	Towers 413-420 are in a large forested area primarily dense coniferous forest with some open wetland areas (coniferous/mixedwood/open deciduous/ wetland [treed bog]).
423	Tower 423 is in an open marshy area (wetland [marsh]).

426-438	Towers 426-438 are in a large natural area with a mix of forested area, primarily open deciduous and open wetland areas, with small patches of coniferous forest (open deciduous/wetland [marsh/treed bog]/deciduous/coniferous).
442-471	Towers 442-471 are in a large natural area with a mix of forested area primarily coniferous/mixedwood with small patches of open deciduous forest and some small wetland areas (open deciduous/wetland [marsh/treed bog]/deciduous/ coniferous). (mixedwood/coniferous/open deciduous/wetland [treed bog]).
495-496	Towers 495-496 are in an open grassland (range grassland) on the edge of a large natural area to the east consisting of mostly coniferous forest and open wetland areas (coniferous/wetland/treed bog). It is also adjacent to agricultural fields (agricultural field).

Manitoba - Minnesota Transmission Project

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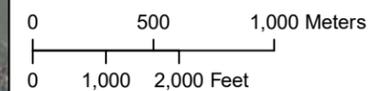
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Landbase

- Trans-Canada Highway
- Provincial Trunk Highway
- Provincial Road
- Municipal Road
- Rail
- Electrical Station
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- Rural Municipality



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Transmission Infrastructure Intersecting Crown Lands

Manitoba - Minnesota Transmission Project

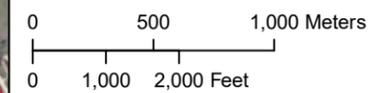
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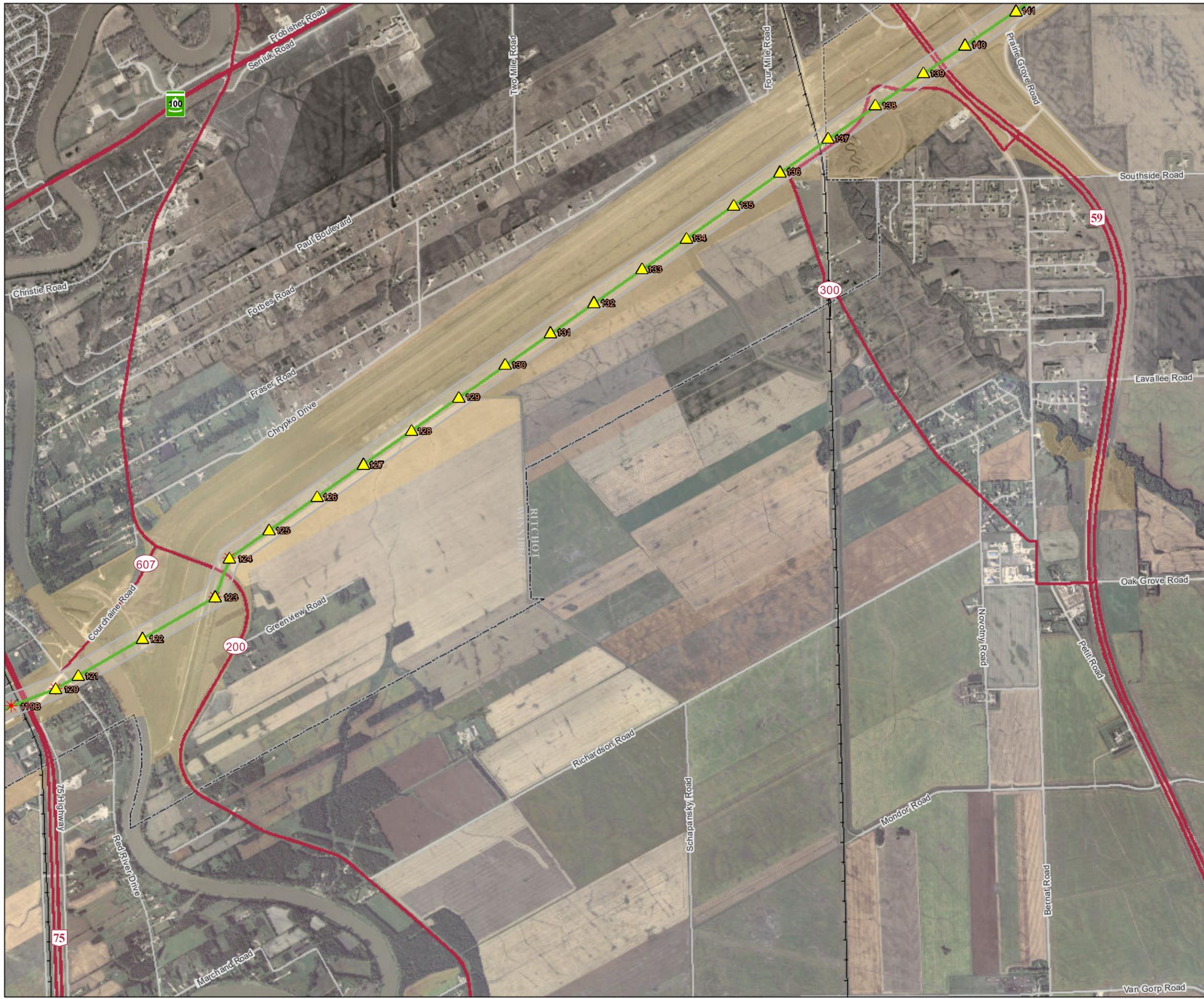
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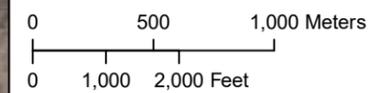
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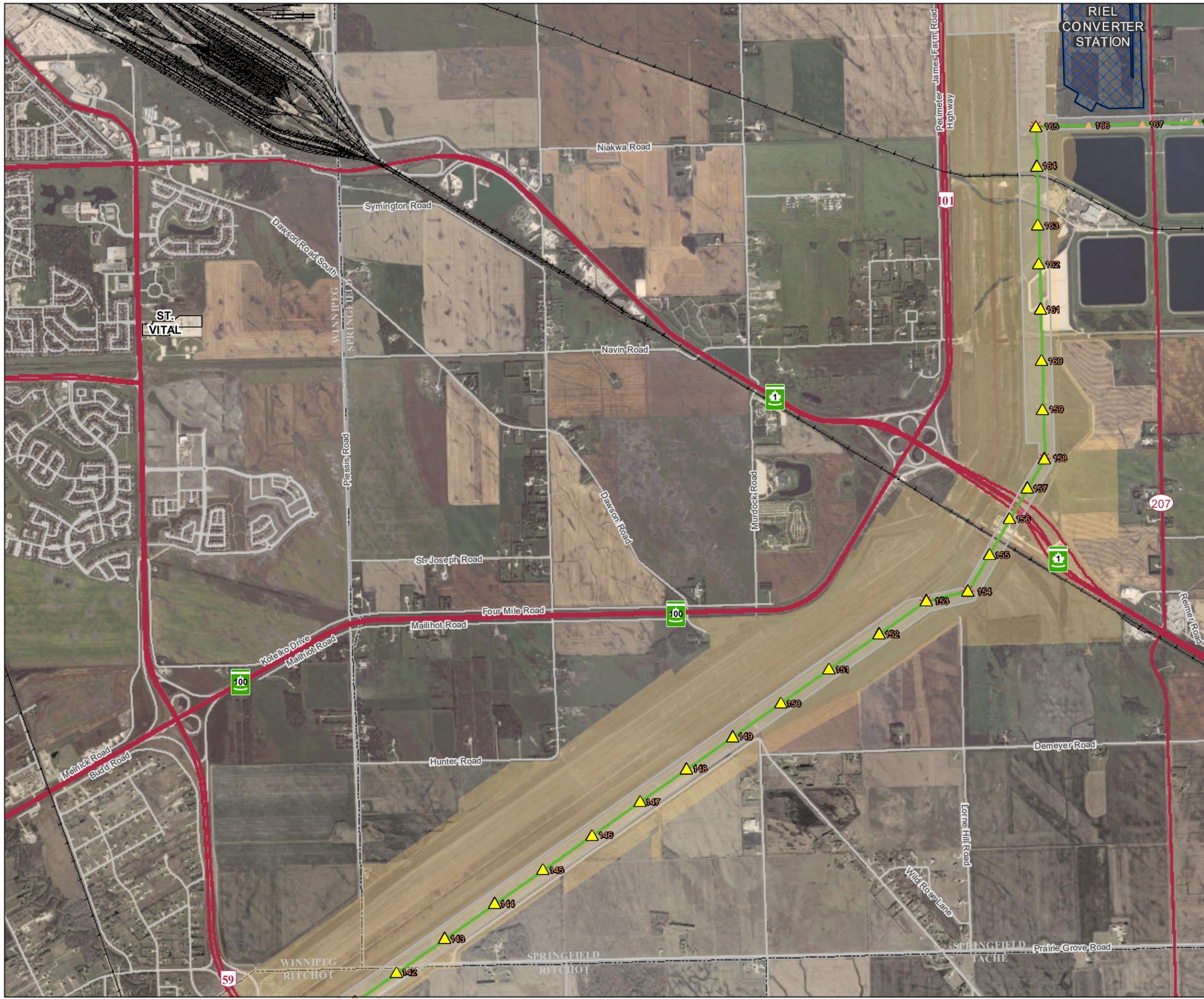
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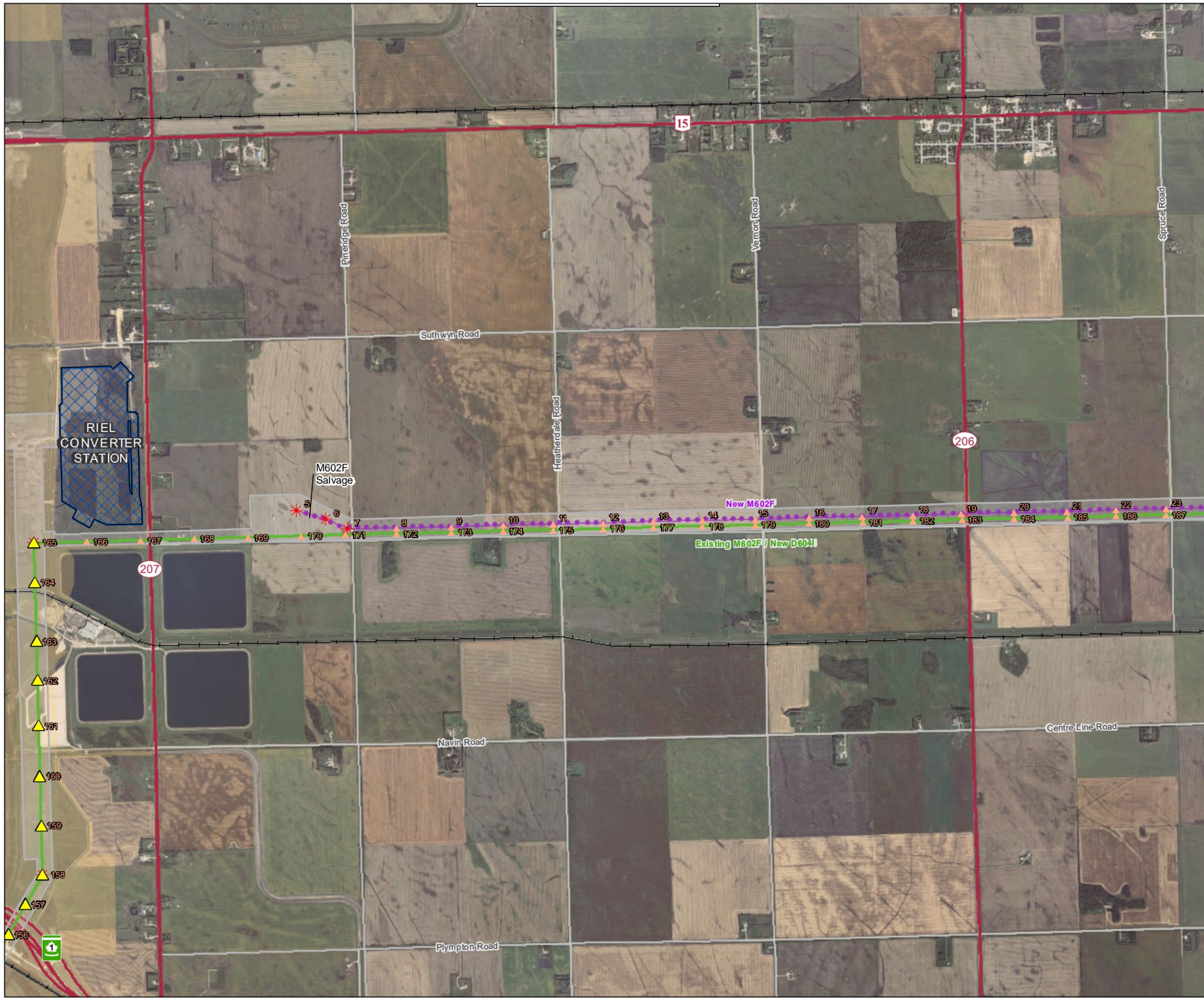
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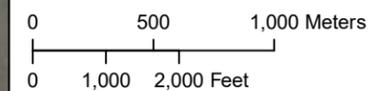
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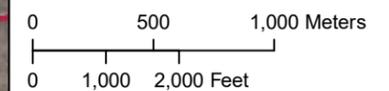
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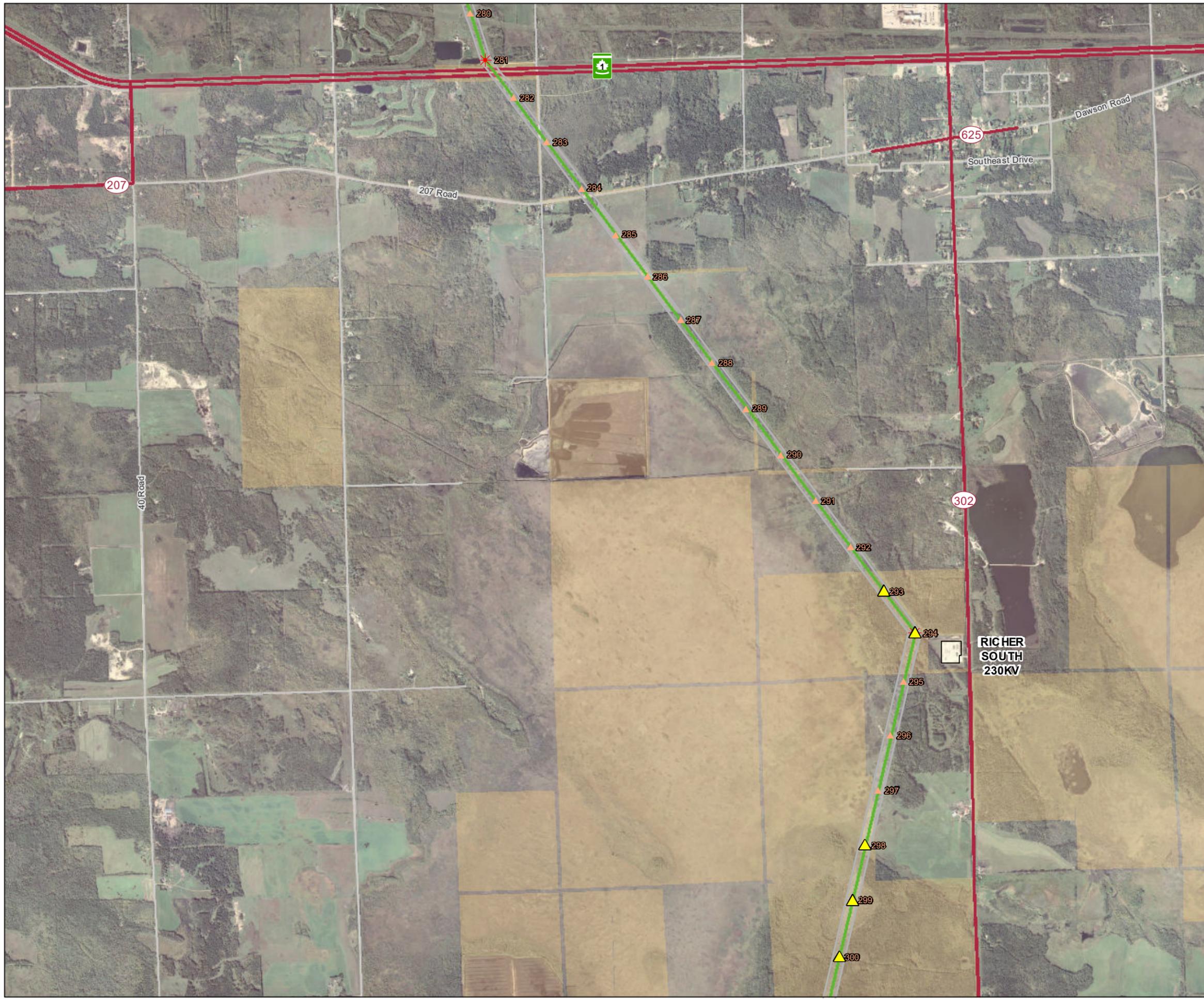
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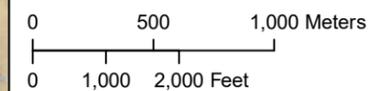
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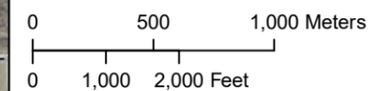
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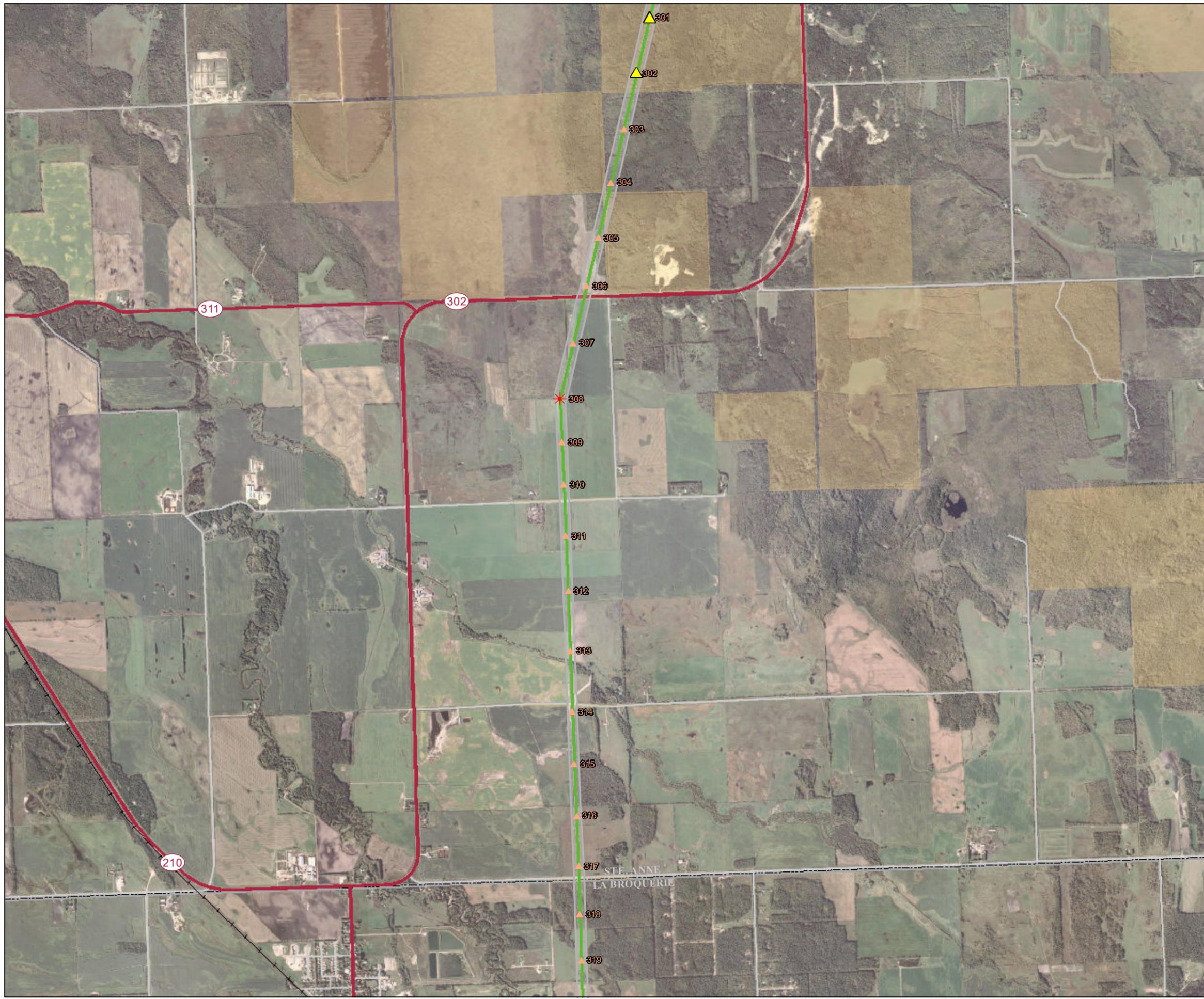
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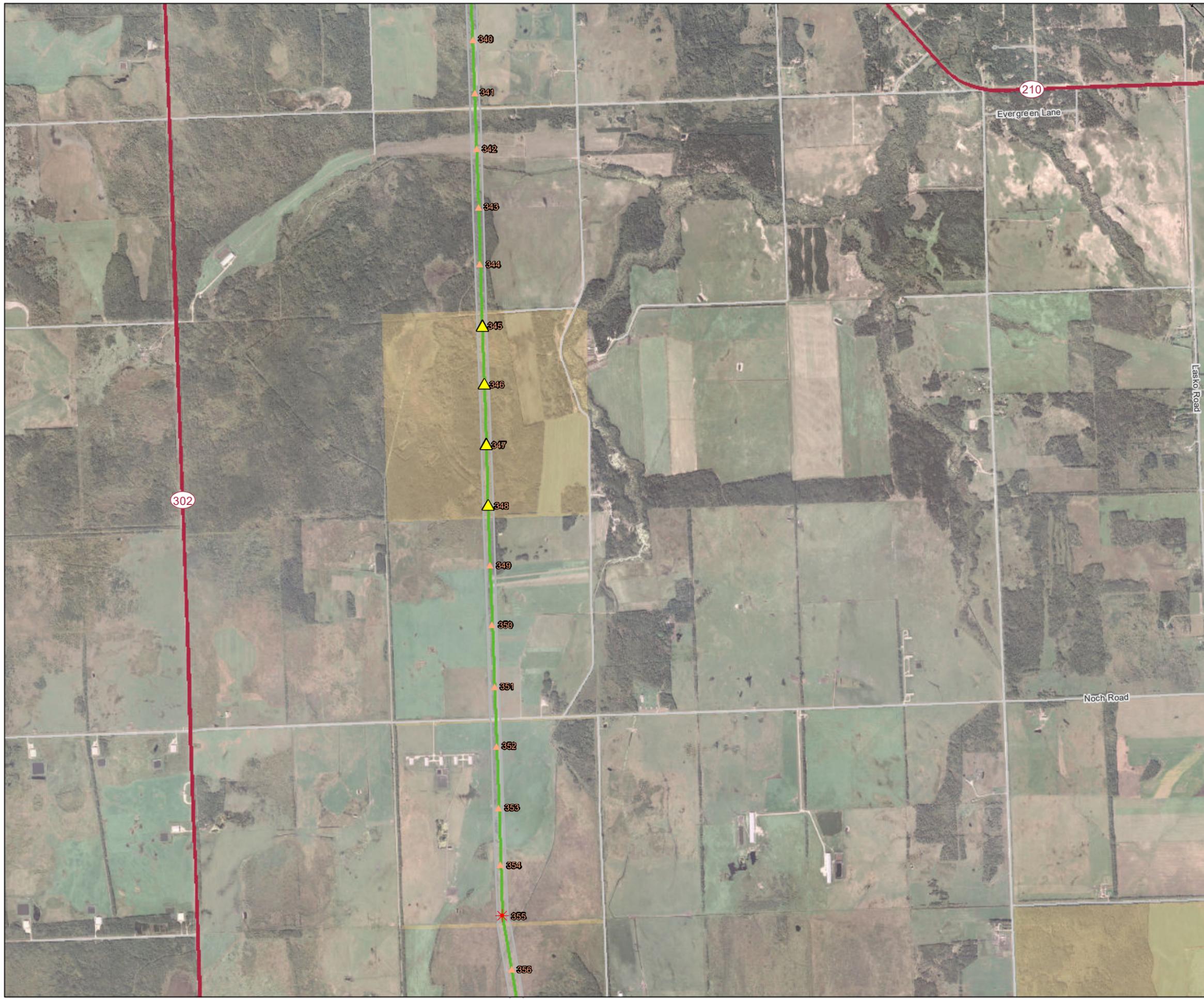
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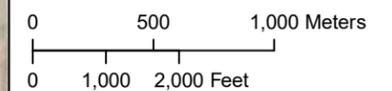
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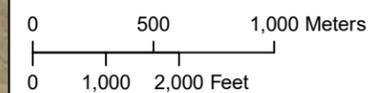
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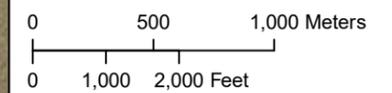
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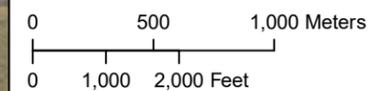
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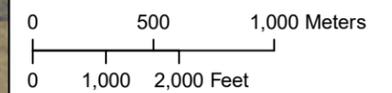
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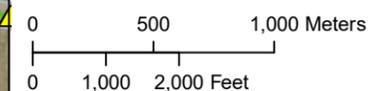
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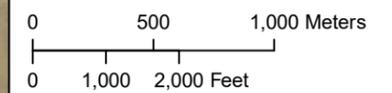
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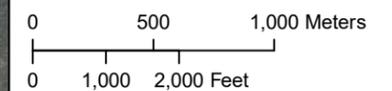
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Transmission Infrastructure Intersecting Crown Lands

Map 2: Map of area of focus for parcel selection

Appendix A: Crown land loss

Appendix A: Crown land loss

The footprint of self-supporting tower structures resulted in an average of 135 m² of Crown land loss each and the footprint of guyed tower structures resulted in an average of 3100 m² of Crown land loss each.

There is no loss of Crown land associated with the Dorsey and Riel converter stations or Glenboro south station. Dorsey converter station expansion to the west is on Manitoba Hydro-owned property (Environmental Impact Statement Section 2.4.2.1). Work at both Riel and Glenboro stations will occur within the existing fenced areas (Environmental Impact Statement Sections 2.4.2.2 and 2.4.2.3, respectively).

Where the transmission line right-of-way intersects Crown land, there are 75 guyed towers and 64 self-supporting towers (Table A-1).

Table A-1: Estimated Permanent Crown land loss (ha) by tower type

Project Component	Tower type	# of Towers	Crown land loss m ²
Towers	Self-supporting	64	8650 (0.865 ha)
	Guyed	75	232,750 (23.3 ha)
Total			241,400 (24.1 ha)

The estimated total area of permanent Crown land loss associated with tower footprints is 24.1 hectares.

Appendix B: Summary of Manitoba Hydro's fulfilment of consultation requirements

Appendix B: Summary of Manitoba Hydro's fulfilment of consultation requirements

Below is a description of Manitoba Hydro's consultation with potentially affected Indigenous communities and provincial and federal authorities regarding the Crown Land Offset Measures Plan, including a description of any issues or concerns raised regarding the Plan by Indigenous communities and how Manitoba Hydro has addressed or responded to them.

Manitoba Hydro's consultation efforts have been carried out based on the definition provided by the National Energy Board (NEB) in the Reasons for Decision EH-001-2017.

NEB Definition of Consultation

"Unless otherwise specified in a condition, Manitoba Hydro's consultation must be carried out in a manner that:

a) provides, to those to be consulted:

- i) notice of the matter in sufficient form and detail to allow them to prepare their views or information on the matter;*
- ii) a reasonable period for them to prepare those views or information; and,*
- iii) an opportunity to present those views or information to Manitoba Hydro;*

b) considers, fully and impartially, the views or information presented;

c) provides, to those in a) who request it, a draft summary of the consultation undertaken with that party, and a reasonable period for them to provide feedback to Manitoba Hydro; and,

d) provides, to those in a) who request it, a copy of the National Energy Board filing receipt for, or notice of, the condition filing to which the consultation pertains."

In November of 2019, Manitoba Hydro provided notice of the draft Plan and asked for views or information on the matter. Since November of 2019, various opportunities to present those views were provided (see Table B-1). Some communities have shared their views and information, which have been considered in this revised approach.

The following is a draft summary of the consultation undertaken with each party.

Appendix B of this Plan contains documentation about Manitoba Hydro’s consultation with Indigenous communities and Federal/Provincial agencies

Appendix B-1

Appendix B-1 contains a description of the consultation methods and dates of consultation with each Indigenous community.

B-1 Communities included and communication log

Community	Date calls made/emails sent, status as of August 21, 2020
Animakee Wa Zhing #37 First Nation	<p>November 26, 2019: Manitoba Hydro shared a draft Crown Land Offset Measures Plan with the community.</p> <p>December 5, 2019: Manitoba Hydro staff called the community and left a message with Chief and Council.</p> <p>December 6, 2019: Manitoba Hydro staff called and spoke to a community representative to confirm receipt of their email. Manitoba Hydro staff sent an email to a community representative including a copy of the November 26 email and asked them to let Manitoba Hydro know if they had any incorrect addresses.</p> <p>December 12, 2019: Animakee Wa Zhing #37 First Nation representatives sent a letter with preliminary thoughts on the conditions and requested funding.</p> <p>January 7, 2019: Manitoba Hydro sent an email to a community representative asking for a meeting to discuss Conditions 22 and 26</p> <p>January 22, 2020: Manitoba Hydro representatives responded to Animakee Wa Zhing #37 First Nation’s request.</p>

Community	Date calls made/emails sent, status as of August 21, 2020
	<p>February 21, 2020: Manitoba Hydro and Animakee Wa Zhing sent emails confirming the meeting planned for February 24</p> <p>February 24, 2020: Manitoba Hydro met with Chief and Council and community representatives to give an overview of the draft offset plans for the conditions and listen to any initial feedback they had. Those in attendance shared concerns and ideas that were noted by Manitoba Hydro. At this meeting a community representative indicated the entire area under the transmission line should be considered loss of Crown land.</p> <p>Animakee Wa Zhing #37 representatives noted that they will be reviewing the conditions in more detail and will provide a formal written response to Manitoba Hydro in early March.</p> <p>June 5, 2020: Manitoba Hydro sent an email to Animakee Wa Zhing #37 First Nation providing the revised approach to fulfilling Condition 22.</p> <p>June 10, 2020: A Manitoba Hydro representative contacted AWZ#37 legal representative who indicated that they did receive the June 5, 2020 email and will be speaking with the First Nation to determine whether they will be providing participating in the discussion forum and whether they would put forward a proposal to review the Summary Approach and draft Final Plan.</p> <p>July 29, 2020: A Manitoba Hydro representative emailed all MMTP Indigenous communities sharing the draft final CLOMP. The email asked for feedback on the draft final CLOMP by August 17, 2020 and provided a summary of the activities to date.</p>
Anishinaabeg of Naongashiing	November 26, 2019: Manitoba Hydro shared a draft Crown Land Offset Measures Plan with the community.

Community	Date calls made/emails sent, status as of August 21, 2020
	<p>December 5, 2019: Manitoba Hydro emailed a community representative to confirm Anishinaabeg of Naongashiing's receipt of Manitoba Hydro's email regarding MMTP Conditions 22 & 26, as well as an upcoming Monitoring meeting. A community representative received the information who shared that no one from the community will be attending the next Monitoring Committee meeting.</p> <p>December 11, 2019: Manitoba Hydro staff sent an email asking if representatives from Anishinaabeg of Naongashiing are planning to review and provide feedback on the plans.</p> <p>January 14, 2020: Manitoba Hydro emailed a community representative to inquire if anyone from Anishinaabeg of Naongashiing reviewed the condition documents.</p> <p>January 24, 2020: A community representative emailed Manitoba Hydro inquiring about their community's review of Conditions 22 & 26 (timeline & funding).</p> <p>January 28, 2020: Manitoba Hydro responded to community representative's inquiry about their community's review of Conditions 22 & 26.</p> <p>January 29, 2020: Manitoba Hydro received an email from community representative requesting more information regarding the review of MMTP Conditions 22 & 26.</p> <p>January 29, 2020: Manitoba Hydro responded to community representative's request for more information regarding the review of MMTP Conditions 22 & 26.</p> <p>April 4, 2020: Manitoba Hydro called the community to inquire about the community's review of Condition 22. A community representative indicated that the community has no input on Condition 22.</p> <p>June 5, 2020: Manitoba Hydro sent an email providing the revised approach to fulfilling Condition 22</p>

Community	Date calls made/emails sent, status as of August 21, 2020
	<p>June 9, 2020: A Manitoba Hydro representative spoke with a community representative who did not confirm that they received the email from Manitoba Hydro on June 5th, but indicated that they would look later today. A Manitoba Hydro representative provided a summary of the revised approach. The community representative is tentative for the meeting on June 17th.</p> <p>July 29, 2020: A Manitoba Hydro representative emailed all MMTP Indigenous communities sharing the draft final CLOMP. The email asked for feedback on the draft final CLOMP by August 17, 2020 and provided a summary of the activities to date.</p>
Birdtail Sioux Dakota Nation	<p>November 26, 2019: Manitoba Hydro shared a draft Crown Land Offset Measures Plan with the community.</p> <p>December 5, 2019: Manitoba Hydro emailed a community representative to confirm Birdtail Sioux Dakota Nation's receipt of Manitoba Hydro's email regarding MMTP Conditions 22 & 26, as well as an upcoming Monitoring meeting and to inquire about their community reviewing the conditions document. A community representative received the information who indicated that no one from Birdtail Sioux Dakota Nation will be at the next MMTP Monitoring Committee Meeting.</p> <p>January 8, 2019: Manitoba Hydro followed up via email to Chief and community representatives about input on License conditions 22 & 26.</p> <p>January 30, 2020: Manitoba Hydro called the Band office to inquire about the emails sent to Chief about Conditions 22 & 26. There was no answer or voicemail.</p> <p>January 30, 2020: Manitoba Hydro called a community representative to inquire about the emails sent to them and the Chief about Conditions 22 & 26. There was no answer.</p>

Community	Date calls made/emails sent, status as of August 21, 2020
	<p>April 6, 2020: Manitoba Hydro called a community representative to inquire about the community's review of Condition #22. The community representative indicated that the community will not be providing any input on conditions 22 or 26.</p> <p>June 5, 2020: Manitoba Hydro sent an email providing the revised approach to fulfilling Condition 22.</p> <p>June 9, 2020: A Manitoba Hydro representative spoke with a community representative and confirmed that they received Manitoba Hydro's email on June 5th regarding the revised approach to meeting Condition 22. The community representative mentioned that they would share the information with the Band's lawyer and that they intend to attend the group video meeting on June 17th. A Manitoba Hydro representative provided a summary of the revised approach.</p> <p>July 29, 2020: A Manitoba Hydro representative emailed all MMTP Indigenous communities sharing the draft final CLOMP. The email asked for feedback on the draft final CLOMP by August 17, 2020 and provided a summary of the activities to date.</p>
Black River First Nation	<p>November 26, 2019: Manitoba Hydro shared a draft Crown Land Offset Measures Plan with the community.</p> <p>December 5, 2019: Manitoba Hydro emailed a councillor to confirm Black River First Nation's receipt of Manitoba Hydro's email regarding MMTP Conditions 22 & 26, as well as an upcoming Monitoring meeting. The councillor confirmed receipt of the information and confirmed that they will be attending the next MMTP Monitoring Committee meeting.</p> <p>December 19, 2019: Manitoba Hydro sent Council an email asking for some potential dates for Manitoba Hydro to come to Black River First Nation to further discuss Conditions 22 & 26.</p>

Community**Date calls made/emails sent, status as of August 21, 2020**

January 8, 2020: Manitoba Hydro sent an email to Council regarding MMTP License conditions 22 & 26.

January 14, 2020: Manitoba Hydro arranged a meeting in Black River First Nation to discuss Conditions 22 & 26. The meeting was cancelled due to the weather and rescheduled for February 4th, 2020.

February 4, 2020: Manitoba Hydro met with the Black River First Nation Elders Committee in Black River First Nation to explain the conditions and request any feedback they may have. Members of the Elders Committee indicated that they would review the documents and respond to Manitoba Hydro regarding how they wish to move forward.

February 5, 2020: Manitoba Hydro sent an email including a copy of the notes from the meeting for review.

February 6, 2020: Manitoba Hydro received a phone call from Council. Council called to get an update on how things went at the February 5 meeting in Black River First Nation. Manitoba Hydro gave an update and indicated that Manitoba Hydro hopes to receive any additional feedback from their community in the next two weeks.

April 6, 2020: Manitoba Hydro called a community representative to inquire about the community's review of Condition #22 & #26. The community representative indicated that the community has similar comments to what was discussed previously – that offsets should include more than just the area that the towers cover. The offset should include the entire ROW. The community representative indicated that they have no issues or concerns with how Manitoba Hydro has gone about obtaining feedback on the conditions and that Manitoba Hydro should stick to the timelines presented to them.

Community	Date calls made/emails sent, status as of August 21, 2020
	<p>June 8, 2020: A Manitoba Hydro representative spoke with a community representative and confirmed that they received Manitoba Hydro's email on June 5th regarding the revised approach to meeting Condition 22. The representative did not express an interest in providing feedback on the document, but they confirmed that they would attend the group video meeting on June 17th. A Manitoba Hydro representative provided a summary of the revised approach.</p> <p>July 29, 2020: A Manitoba Hydro representative emailed all MMTP Indigenous communities sharing the draft final CLOMP. The email asked for feedback on the draft final CLOMP by August 17, 2020 and provided a summary of the activities to date.</p>
Brokenhead Ojibway Nation	<p>November 26, 2019: Manitoba Hydro shared a draft Crown Land Offset Measures Plan with the community.</p> <p>December 4, 2019: Manitoba Hydro staff confirmed receipt of the November 26 email at a meeting with Brokenhead Ojibway Nation Lands Department representatives. Brokenhead Ojibway Nation staff acknowledged that the email was received. The representatives have not had a chance to consider the offset plans yet. The Lands Department will consider setting up a meeting to discuss the plans in January and let Manitoba Hydro know. The Lands Department representatives are not able to attend the December 16 meeting but will ask Council if they can.</p> <p>December 4, 2019: Manitoba Hydro emailed the Lands Department to recap the discussions at the December 4th meeting. Brokenhead Ojibway Nation noted they have not reviewed the draft offset plans so not sure of next step but may be interested in meeting in January 2020.</p> <p>January 10, 2020: Manitoba Hydro emailed the Lands Department to see if there is interest in meeting to discuss the draft offset plans and if Brokenhead Ojibway Nation will provide feedback.</p>

Community	Date calls made/emails sent, status as of August 21, 2020
	<p>January 21, 2020: Manitoba Hydro called the Lands Department to follow-up on the request for a meeting to discuss the draft offset plans. The Lands Department indicated they have not reviewed the information yet so unsure about next steps.</p> <p>January 28, 2020: Manitoba Hydro called the Lands Department to follow-up on the request for a meeting to discuss the draft offset plans for the Conditions. The Lands Department indicated that discussing the Conditions is not a priority at this time. Manitoba Hydro noted that if resourcing is an issue Manitoba Hydro could make arrangements to support the community's review.</p> <p>February 13, 2020: Manitoba Hydro emailed the Lands Department and Council to see if there is interest in meeting to discuss the draft offset plans for the Conditions and see if Brokenhead Ojibway Nation intends to provide feedback. No response.</p> <p>April 8, 2020: Manitoba Hydro sent an email and left a voicemail for a community representative to call to discuss their intent to review and comment on Condition 22 as per the March 31 email that was sent.</p> <p>April 8, 2020: Manitoba Hydro sent an email to Brokenhead Ojibway Nation representatives to follow up on their intent to provide feedback on the draft Crown land offset plan.</p> <p>June 5, 2020: Manitoba Hydro sent an email to Brokenhead Ojibway Nation providing the revised approach to fulfilling Condition 22.</p> <p>June 9, 2020: A Manitoba Hydro representative left a message with a community representative to call regarding the June 5, 2020 email relating to Condition 22.</p> <p>June 10, 2020: A Manitoba Hydro representative left a message with a community representative to call regarding the June 5, 2020 email relating to Condition 22. A Manitoba Hydro representative left</p>

Community	Date calls made/emails sent, status as of August 21, 2020
	<p>a voicemail with another community representative to call regarding the June 5, 2020 email relating to Condition 22.</p> <p>June 11, 2020: A Brokenhead Ojibway Nation representative called a Manitoba Hydro representative and confirmed receipt of the June 5, 2020 email. The community representative indicated that their staff is able to attend the June 17 online discussion forum. The community representative noted they haven't had a chance to review the email in detail so will let us know if interested in the support for review.</p> <p>July 29, 2020: A Manitoba Hydro representative emailed all MMTP Indigenous communities sharing the draft final CLOMP. The email asked for feedback on the draft final CLOMP by August 17, 2020 and provided a summary of the activities to date.</p>
Buffalo Point First Nation	<p>November 26, 2019: Manitoba Hydro shared a draft Crown Land Offset Measures Plan with the community.</p> <p>November 27, 2019: A councillor responded to the November 26 email from Manitoba Hydro.</p> <p>December 6, 2019: Manitoba Hydro followed up on the councillor's email on December 6 asking if they would like to meet to discuss the draft conditions. Manitoba Hydro tried to call the councillor on December 5 and December 6, January 15 and January 29.</p> <p>January 29, 2020: Manitoba Hydro sent a follow-up email to Council.</p> <p>February 3, 2020: A Buffalo Point First Nation Councillor sent a follow up email to their December 6 email.</p>

Community	Date calls made/emails sent, status as of August 21, 2020
	<p>February 7, 2020: Manitoba Hydro responded to the email from Buffalo Point First Nation asking if the community would like to meet to discuss the draft offset conditions</p> <p>April 8, 2020: Manitoba Hydro sent an email to Buffalo Point First Nation about the draft Crown land offset plan</p> <p>April 9, 2020: Buffalo Point First Nation sent an email asking about the plan. Manitoba Hydro sent an email in response to Buffalo Point First Nation's email</p> <p>June 5, 2020: Manitoba Hydro sent an email providing the revised approach to fulfilling Condition 22</p> <p>June 10, 2020: A Manitoba Hydro representative tried to call the community band office and was instructed to send an email instead. The Manitoba Hydro representative sent an email.</p> <p>July 29, 2020: A Manitoba Hydro representative emailed all MMTP Indigenous communities sharing the draft final CLOMP. The email asked for feedback on the draft final CLOMP by August 17, 2020 and provided a summary of the activities to date.</p>
Canupawakpa Dakota First Nation	<p>November 26, 2019: Manitoba Hydro shared a draft Crown Land Offset Measures Plan with the community.</p> <p>December 5, 2019: Manitoba Hydro tried to call the Chief but they were out of the office. Manitoba Hydro sent a follow up email.</p> <p>January 29, 2020: Manitoba Hydro sent a follow-up email to the Chief to see if they would like to meet to discuss the Project.</p>

Community	Date calls made/emails sent, status as of August 21, 2020
	<p>April 8, 2020: Manitoba Hydro sent an email to Canupawakpa Dakota Nation regarding the draft Crown land offset plan</p> <p>May 1, 2020: A representative from Canupawakpa Dakota Nation sent an email indicating they would like Manitoba Hydro to meet with Canupawakpa Elders for an information session regarding condition 22 in the future when some of the restrictions are lifted.</p> <p>June 5, 2020: Manitoba Hydro sent an email providing the revised approach to fulfilling Condition 22.</p> <p>June 11, 2020: Manitoba Hydro sent a response indicating that once restrictions are lifted, they are looking forward to meeting with Canupawakpa representatives in person. In the meantime, they are hosting a Discussion Forum using Microsoft Teams on June 17 at 9 am. The Manitoba Hydro representative asked if a representative from Canupawakpa Dakota Nation would be taking part in the discussion forum or providing comments on the approach or the final draft plan.</p> <p>July 29, 2020: A Manitoba Hydro representative emailed all MMTP Indigenous communities sharing the draft final CLOMP. The email asked for feedback on the draft final CLOMP by August 17, 2020 and provided a summary of the activities to date.</p> <p>August 19, 2020: Manitoba Hydro hosted a conference call with Canupawakpa Dakota Nation representatives to discuss Condition 22. Concerns included a request to broaden the Area of Focus to include land in the vicinity of Canupawakpa Dakota Nation for future use, for each community involved to get an equitable share of resources, and for monies not expended in the consultation component of the Trust to be allocated to acquiring lands.</p>

Community	Date calls made/emails sent, status as of August 21, 2020
	<p>August 19, 2020: A Canupawakpa representative emailed Manitoba Hydro the community's written position on Condition 22 based on the discussion that occurred at the August 19, 2020 conference call.</p> <p>August 19, 2020: Manitoba Hydro staff emailed draft meeting notes from the August 19, 2020 Condition 22 discussion to Canupawakpa Dakota Nation for their review and comment.</p> <p>August 19, 2020: Canupawakpa Dakota Nation emailed Manitoba Hydro revisions to the draft August 19, 2020 meeting notes and requested acknowledgement of receipt.</p> <p>August 20, 2020: Manitoba Hydro staff emailed Canupawakpa Dakota Nation to acknowledge receipt of the revisions and asked if there would be further edits on the draft meeting notes.</p> <p>August 20, 2020: Canupawakpa Dakota Nation emailed Manitoba Hydro staff noting the revisions provided are fine for now.</p> <p>August 21, 2020: Manitoba Hydro staff emailed Canupawakpa Dakota Nation the finalized August 19, 2020 meeting notes along with a copy of their position statement on Condition 22 as it was a follow up item to the meeting.</p>
Dakota Plains Wahpeton First Nation	<p>November 26, 2019: Manitoba Hydro shared a draft Crown Land Offset Measures Plan with the community.</p> <p>December 5, 2019: Manitoba Hydro called the Chief and left a message.</p> <p>December 6, 2019: Manitoba Hydro sent a follow up email, which the Chief returned with a phone call. The Chief noted they received the November 26 email and intend to review and provide</p>

Community	Date calls made/emails sent, status as of August 21, 2020
	<p>feedback on the draft offset plans. The community will also consider a meeting to specifically discuss the plans. A community representative is scheduled to attend the Dec 16 meeting.</p> <p>January 10, 2020: Manitoba Hydro emailed the Chief to see if there is interest in meeting to discuss the draft offset plans and if the community will be providing feedback.</p> <p>January 21, 2020: Manitoba Hydro left a message for the Chief to call about the request for a meeting to discuss the draft offset plans. The call was not returned.</p> <p>February 4, 2020: Manitoba Hydro sent an email to the Chief to see if there is interest in meeting to discuss the draft offset plans and if the community intends to provide feedback. Manitoba Hydro representatives did not receive a response.</p> <p>February 13, 2020: Manitoba Hydro sent an email to the Chief to see if there is interest in meeting to discuss the draft offset plans and if the community intends to provide feedback. Manitoba Hydro representatives did not receive a response.</p> <p>February 14, 2020: Manitoba Hydro left a message for the Chief to call to discuss their interest in meeting to discuss the draft offset plans and if they are planning to provide feedback. The call was not returned.</p> <p>April 8, 2020: Manitoba Hydro sent the Chief and a community representative a follow -up email about reviewing the draft Crown land offset plan.</p> <p>June 5, 2020: Manitoba Hydro sent an email to Dakota Plains Wahpeton First Nation providing the revised approach to fulfilling Condition 22.</p> <p>June 9, 2020: A Manitoba Hydro representative spoke with Chief Smoke. He acknowledged receipt of the June 5 email regarding the revised approach to meeting Condition 22 and asked that the</p>

Community	Date calls made/emails sent, status as of August 21, 2020
	<p>Manitoba Hydro representative follow up with a community representative. The Manitoba Hydro representative spoke with the community representative who acknowledged receipt of the June 5 email regarding the revised approach to meeting Condition 22 but hasn't looked at it in detail. They shared that they will be participating on June 17. They also noted that Dakota Plains is interested in obtaining support for review and asked that information be sent to them on this.</p> <p>June 10, 2020: A Manitoba Hydro representative sent an email to a community representative recapping the phone call and sharing the Guide to Develop a Proposal to Review Documents.</p> <p>June 17, 2020: A Dakota Plains Wahpeton First Nation First Nation representative participated in the Discussion Forum and did not share any concerns.</p> <p>July 29, 2020: A Manitoba Hydro representative emailed all MMTP Indigenous communities sharing the draft final CLOMP. The email asked for feedback on the draft final CLOMP by August 17, 2020 and provided a summary of the activities to date.</p>
Dakota Tipi First Nation	<p>November 26, 2019: Manitoba Hydro shared a draft Crown Land Offset Measures Plan with the community.</p> <p>December 5, 2019: Manitoba Hydro texted the Chief and followed up via email.</p> <p>December 6, 2019: The Chief called and said they received the November 26th email and that Council will be discussing how to proceed with the draft offset plans. Based on this they will let Manitoba Hydro know if a meeting to further discuss the Conditions is required. They said one or two representatives will attend the Dec 16 meeting but not sure who yet. Manitoba Hydro staff followed up the phone call with an email.</p>

Community	Date calls made/emails sent, status as of August 21, 2020
	<p>January 10, 2020: Manitoba Hydro emailed the Chief to see if there is interest in meeting to discuss the draft offset plans and if the community will be providing feedback.</p> <p>January 14, 2020: Dakota Tipi First Nation and Manitoba Hydro representatives met to discuss draft offset plans. The Chief noted community will review but need more time.</p> <p>January 15, 2020: Manitoba Hydro emailed Chief and Council the draft meeting notes from January 14 for review.</p> <p>January 21, 2020: Manitoba Hydro emailed the Chief to follow up on community's intent to provide feedback on the draft offset plans and how Manitoba Hydro can support this review.</p> <p>January 30, 2020: The Chief sent a text to a Manitoba Hydro representative requesting an extension to February 17 to review and provide feedback on the draft offset plans. The Chief also approved the meeting notes from January 14.</p> <p>January 30, 2020: Manitoba Hydro staff sent a text to the Chief to acknowledge that getting feedback on the draft offset plans by February 17 is fine.</p> <p>February 13, 2020: Manitoba Hydro sent a text to the Chief to get an update on the review of the draft offset plans.</p> <p>February 13, 2020: The Chief sent a text to Manitoba Hydro staff noting that they will send a response early next week.</p> <p>February 20, 2020: Manitoba Hydro texted the Chief to see if Dakota Tipi First Nation will be providing feedback on the draft plans for the Conditions.</p>

Community

Date calls made/emails sent, status as of August 21, 2020

February 20, 2020: The Chief texted Manitoba Hydro apologizing for not providing feedback as they ran out of time to meet the deadline of February 17 and shared that they do not have a formal issue with the plans. They intend to send a letter.

March 3, 2020: A Manitoba Hydro representative texted the Chief to see if they are still interested in providing feedback on the draft plans associated with Conditions 22 and 26.

April 8, 2020: A Manitoba Hydro representative called the Chief to inquire about the community's review of Condition 22. The Chief indicated that they would like to wait to provide comment given the difficulty with getting community input at this time. He provided one comment regarding the concern about the outstanding territorial issues associated with their current claim process with the Federal government and how any land offsets may impact this process.

June 5, 2020: Manitoba Hydro sent an email to Dakota Tipi First Nation providing the revised approach to fulfilling Condition 22.

June 9, 2020: A Manitoba Hydro representative spoke with the Chief. He acknowledged receipt of the June 5 email regarding the revised approach to meeting Condition 22 and said that no one else needs to be added to the recipient list. The Chief said that a community representative will most likely be the one to attend the June 17 forum, but they will check. The Chief noted they have not had a chance to review the email in detail so will let Manitoba Hydro know if interested in the support for review.

June 19, 2020: The Chief from Dakota Tipi First Nation called a Manitoba Hydro representative requesting a teleconference meeting to discuss MMTP and Condition 22. The Chief proposed the following dates: June 22, June 24 or June 25 and asked that Manitoba Hydro let him know what date works best. A Manitoba Hydro representative called the Chief of Dakota Tipi First Nation to confirm

Community**Date calls made/emails sent, status as of August 21, 2020**

Thursday, June 25, 2020 works for a teleconference meeting to discuss MMTP and Condition 22. It was agreed that the meeting will be from 10 to 11 am and that an agenda and other details would be worked out next week.

June 25, 2020: The Chief from Dakota Tipi First Nation called a Manitoba Hydro representative to ask that the June 5th email and attachments be resent in advance of the June 25th teleconference. A Manitoba Hydro representative sent an email to the Chief of Dakota Tipi First Nation resending the information on Condition 22 originally provided in the June 5th email for the June 25th conference call. A Manitoba Hydro representative sent an email to Dakota Tipi First Nation representatives sharing the Guide to Develop a Proposal to Review Documents for Condition 22 as requested during the June 25th teleconference.

June 29, 2020: The Chief from Dakota Tipi First Nation called a Manitoba Hydro representative to request an extension for the proposal submission for funding to review Condition 22 from June 29th to June 30th. A Manitoba Hydro representative called the Chief to approve their request for extension of the proposal submission to June 30th.

June 30, 2020: The Chief from Dakota Tipi First Nation called a Manitoba Hydro representative to request another extension for the proposal submission for funding to review Condition 22. A Manitoba Hydro representative called the Chief from Dakota Tipi First Nation regarding their request for another extension on their proposal submission. It was agreed that July 6th would be the submission deadline.

July 6, 2020: A Dakota Tipi First Nation representative sent an email to a Manitoba Hydro representative submitting their proposal for funding to review Condition 22 documents. A Manitoba Hydro representative sent an email to Dakota Tipi First Nation acknowledging receipt of the proposal

Community	Date calls made/emails sent, status as of August 21, 2020
	<p>for funding to review Condition 22 documents and to note that Manitoba Hydro has some questions to discuss perhaps over the phone.</p> <p>July 7, 2020: A Dakota Tipi First Nation representative called a Manitoba Hydro representative to discuss the proposal for funding to review Condition 22 documents and necessary revisions.</p> <p>July 8, 2020: A Manitoba Hydro representative sent an email to Dakota Tipi First Nation asking if the revised final proposal for funding to review Condition 22 documents has been verified and approved and if so to send the final version to Manitoba Hydro. A Dakota Tipi First Nation representative sent an email to a Manitoba Hydro representative providing Dakota Tipi's revised final proposal for funding to review Condition 22 documents.</p> <p>July 10, 2020: Manitoba Hydro sent an email to Dakota Tipi First Nation with the letter of approval for funding for the review of the Revised Summary Approach and Draft Final Crown Land Offset Measures Plan.</p> <p>July 23, 2020: A Dakota Tipi First Nation representative met with Manitoba Hydro representatives to discuss the Summary Approach for Condition 22. The Dakota Tipi First Nation representative indicated that a visual description of the plan would be helpful for their community and potentially other communities in understanding how this condition will be met.</p> <p>July 29, 2020: A Manitoba Hydro representative emailed all MMTP Indigenous communities sharing the draft final CLOMP. The email asked for feedback on the draft final CLOMP by August 17, 2020 and provided a summary of the activities to date.</p> <p>August 13, 2020: A Manitoba Hydro representative had discussions with a Dakota Tipi representative to coordinate a meeting with leadership regarding Condition 22.</p>

Community	Date calls made/emails sent, status as of August 21, 2020
	<p>August 17, 2020: Chief of Dakota Tipi First Nation called a Manitoba Hydro representative to request extension of their submission of written feedback on the draft final plan for Condition 22. Manitoba Hydro confirmed an extension on the written comments no later than August 21, 2020 and asked if preliminary verbal comments could be provided. The Chief asked if a teleconference today, August 17, at 3pm would work. Manitoba Hydro noted that they will need to confirm the time and will respond back.</p> <p>August 17, 2020: A Manitoba Hydro representative called the Chief of Dakota Tipi First Nation to confirm that a call at 3pm on August 17th, 2020 works for Dakota Tipi First Nation to provide preliminary verbal comments on the draft final plan for Condition 22.</p> <p>August 17, 2020: Manitoba Hydro representatives hosted an online meeting with Dakota Tipi leadership and representative to discuss Condition 22. Concerns included a request to broaden the Area of Focus to include an area in close proximity to Dakota Tipi First Nation.</p> <p>August 21, 2020: Chief of Dakota Tipi First Nation emailed Manitoba Hydro staff their feedback on the draft final plan for Condition 22 in the form of a letter.</p> <p>August 21, 2020: Manitoba Hydro emailed Dakota Tipi representatives thanking them for their submission of the draft final plan for Condition 22.</p>
Iskatewizaagegan No. 39 Independent First Nation	<p>November 26, 2019: Manitoba Hydro shared a draft Crown Land Offset Measures Plan with the community.</p> <p>December 5, 2019: Manitoba Hydro emailed a community representative to confirm Iskatewizaagegan No. 39 receipt of Manitoba Hydro's email regarding MMTP Conditions 22 & 26, as well as an upcoming Monitoring meeting. A community representative confirmed receipt of the</p>

Community	Date calls made/emails sent, status as of August 21, 2020
	<p>information. A representative from the community will attend the next MMTP Monitoring Committee meeting.</p> <p>January 14, 2020: Manitoba Hydro emailed a community representative to follow up to see if anyone from the community has reviewed the conditions.</p> <p>January 30, 2020: Manitoba Hydro called the Band office and spoke to a community representative about the conditions. Manitoba Hydro followed up on the conversation by forwarding them the emails previously sent to community representatives related to the conditions.</p> <p>January 30, 2020: Manitoba Hydro received an email from a community representative acknowledging receipt of an email sent to them and other community representatives regarding the review of Conditions 22 & 26. The community representative committed to discussing the matter with other community representatives and getting back to Manitoba Hydro.</p> <p>February 13, 2020: Manitoba Hydro received an email from community representatives indicating that they would like to attend the Tour/BBQ in the Lonesand area on March 18. Manitoba Hydro followed up on the email via a phone call and a community representative confirmed that they had reviewed the Conditions, had no concerns about them, and forwarded them on to Chief & Council for their review. If Chief & Council have any concerns with the conditions, they will reach out to Manitoba Hydro directly.</p> <p>April 8, 2020: A Manitoba Hydro representative called the Chief and inquired if they or anyone else from their community had any questions or concerns about Condition 22. The Chief indicated that they have not yet had a chance to review the condition and that Manitoba Hydro should call back on Friday, April 10th to discuss after they have had a chance to review.</p>

Community	Date calls made/emails sent, status as of August 21, 2020
	<p>June 5, 2020: Manitoba Hydro sent an email providing the revised approach to fulfilling Condition 22</p> <p>June 8, 9 and 10, 2020: A Manitoba Hydro representative called a community representative and the Band office on June 8th, 9th, & 10th, however, there was no answer at either number on any occasion. The community representative responded to Manitoba Hydro's June 5th email indicating that they would not be able to attend the June 17th discussion due to scheduling conflicts. Manitoba Hydro sent an email thanking the community representative for their notification regarding attendance at the Condition 22 Discussion Forum</p> <p>June 17, 2020: An Iskatewizaagegan No. 39 Independent First Nation representative participated in the Discussion Forum.</p> <p>July 29, 2020: A Manitoba Hydro representative emailed all MMTP Indigenous communities sharing the draft final CLOMP. The email asked for feedback on the draft final CLOMP by August 17, 2020 and provided a summary of the activities to date.</p>
Long Plain First Nation	<p>November 26, 2019: Manitoba Hydro shared a draft Crown Land Offset Measures Plan with the community.</p> <p>November 29, 2019: Manitoba Hydro sent an email to a community representative asking if they would like to meet.</p> <p>January 8, 2020: Manitoba Hydro left a message with the Land Management Office. Long Plain First Nation staff returned Manitoba Hydro's call and let them know that they would be attending the meeting today and were working on setting up a meeting with Chief and Council to discuss the draft conditions.</p>

Community**Date calls made/emails sent, status as of August 21, 2020**

January 10, 2020: A representative from Long Plain First Nation sent an email proposing January 22 for a leadership meeting. Manitoba Hydro responded to the email and confirmed that the date works for the meeting.

January 22, 2020: Manitoba Hydro met with community representatives. A follow-up meeting was planned for February 25.

January 28, 2020: Manitoba Hydro sent an email to a Long Plain First Nation representative including a copy of the draft notes from the meeting

February 25, 2020: Manitoba Hydro met with members of Chief and Council along with Program Managers to discuss the draft offset plans. Discussion of the plans did not occur as the Chief had concerns related to their legal proceedings related to MMTP and thought it best that no specific discussion on MMTP or the Conditions occur. Manitoba Hydro respected the decision and ended the meeting.

April 8, 2020: Manitoba Hydro sent an email to Long Plain First Nation to follow-up about reviewing the draft Crown land offset plan

June 5, 2020: Manitoba Hydro sent an email to Long Plain First Nation providing the revised approach to Condition 22.

June 9, 2020: A Manitoba Hydro representative spoke with a community representative who indicated that they received the email from June 5 regarding the revised approach to meeting Condition 22. They said they will most likely participate in the June 17 forum especially if it is online. They noted they haven't reviewed the email in detail yet so will let Manitoba Hydro know if interested in the support for review.

Community	Date calls made/emails sent, status as of August 21, 2020
	<p>June 17, 2020: A Long First Nation representative called a Manitoba Hydro representative to note that they are now unable to attend the June 17th online discussion forum related to Condition 22 and that they send their regrets.</p> <p>July 29, 2020: A Manitoba Hydro representative emailed all MMTP Indigenous communities sharing the draft final CLOMP. The email asked for feedback on the draft final CLOMP by August 17, 2020 and provided a summary of the activities to date.</p>
Manitoba Metis Federation	<p>November 26, 2019: Manitoba Hydro shared a draft Crown Land Offset Measures Plan with the community.</p> <p>December 5, 2019 and December 6, 2019: Manitoba Hydro staff left a message for a representative on December 5 and 6th.</p> <p>December 17, 2019: The Manitoba Metis Federation sent an email expressing significant concerns about the draft plan.</p> <p>December 19, 2019: Manitoba Hydro sent a response to the MMF's December 17th email.</p> <p>February 14, 2020: The Manitoba Metis Federation sent a letter providing comments on Manitoba Hydro's draft plans for Condition 22 and 26.</p> <p>March 11, 2020: Manitoba Hydro sent a letter in response to the MMF's February 14th letter.</p> <p>March 16, 2020: Manitoba Hydro sent an email including a letter to follow up on a letter sent from the Manitoba Metis Federation about a review of Conditions 22 and 26 and requesting further details on a budget</p>

Community	Date calls made/emails sent, status as of August 21, 2020
	<p>April 22, 2020: the MMF submitted a budget and workplan for MMTP Condition 22 and 26 Plan Review</p> <p>May 7, 2020: Manitoba Hydro sent an email recommending the MMF review a more updated version of the Plan and that the current budget submitted by the MMF for review of the plans needed further discussion.</p> <p>June 5, 2020: Manitoba Hydro sent an email to the MMF providing a revised approach to fulfilling Condition 22</p> <p>June 10, 2020: A Manitoba Hydro representative spoke to an MMF representative to confirm receipt of information regarding Condition 22. The MMF representative indicated two representatives from the MMF would be attending the June 17 discussion forum.</p> <p>June 17, 2020: Two representatives from the MMF participated in the Discussion Forum, and shared concerns regarding the Crown Land designation and future development, the availability of the offset lands for Indigenous use, the involvement of the Provincial Crown Lands department, and the ongoing management of these offset lands.</p> <p>June 25, 2020: The MMF sent an email and proposal to review Condition 22. Manitoba Hydro sent an email to the MMF in response to concerns shared regarding funding to review Condition 22</p> <p>June 29, 2020: The MMF sent a letter sharing concerns about Manitoba Hydro's Crown Land Offset Measures Plan for Condition 22 of Certificate EC-059. Manitoba Hydro sent an email to the MMF responding to the workplan submitted and request for discussion</p> <p>June 30, 2020: Manitoba Hydro sent an email to the MMF asking for clarity on Condition 22 review proposal. Manitoba Hydro sent a letter to the MMF regarding Condition 22.</p>

Community	Date calls made/emails sent, status as of August 21, 2020
	<p>July 23, 2020: The MMF sent an updated workplan and budget for review of documents related to Condition 22.</p> <p>July 24, 2020: Manitoba Hydro sent a letter in response to the MMF's letter from June 29.</p> <p>July 28, 2020: Manitoba Hydro sent an email to the MMF with the letter of approval for funding for the review of the Revised Summary Approach and Draft Final Crown Land Offset Measures Plan.</p> <p>July 29, 2020: A Manitoba Hydro representative sent an email with links to previous versions of Condition 22 and 26 and the most recent version of the plan under review for Condition 22.</p> <p>August 17, 2020: A Manitoba Hydro representative emailed the MMF to see if comments on Condition 22 will be submitted today.</p> <p>August 17, 2020: A MMF representative emailed a Manitoba Hydro representative responding that comments on Condition 22 should be submitted later tonight or tomorrow morning.</p> <p>August 18, 2020: A MMF representative emailed Manitoba Hydro, the MMF's preliminary comments on Manitoba Hydro's draft MMTP Crown Land Offset Measures Plan for Condition 22. The MMF also noted that the community consultation meeting is scheduled for this evening and following this a revised version of the document will be forwarded to Manitoba Hydro as soon as possible.</p> <p>August 24, 2020: A MMF representative emailed a Manitoba Hydro representative the MMF's revised comments on Manitoba Hydro's Draft Plan for MMTP Certificate Condition 22.</p>
Northwest Angle No.33 First Nation	November 26, 2019: Manitoba Hydro shared a draft Crown Land Offset Measures Plan with the community.

Community	Date calls made/emails sent, status as of August 21, 2020
	<p>December 5, 2019: Manitoba Hydro staff spoke to the Chief and re-sent the email sent to them. The Chief was going to think about attending the meeting on December 16th. Manitoba Hydro re-sent the email to the band office as well.</p> <p>June 5, 2020: Manitoba Hydro sent an email to the Northwest Angle No.33 First Nation providing a revised approach to fulfilling Condition 22</p> <p>June 10, 2020: A Manitoba Hydro representative left a voicemail with the Chief.</p> <p>July 29, 2020: A Manitoba Hydro representative emailed all MMTP Indigenous communities sharing the draft final CLOMP. The email asked for feedback on the draft final CLOMP by August 17, 2020 and provided a summary of the activities to date.</p>
Peguis First Nation	<p>November 24, 2019: Manitoba Hydro sent an email requesting a meeting with Peguis First Nation about the proposed plans so they can be reviewed in person and we can listen to any concerns directly from the community. Manitoba Hydro contacted a community representative via email and text. A meeting to discuss Conditions was set up for December 9. The meeting was confirmed with band administrative staff.</p> <p>November 26, 2019: Manitoba Hydro shared a draft Crown Land Offset Measures Plan with the community.</p> <p>December 9, 2019: Representatives from Chief and Council and Manitoba Hydro met to discuss the Project. Community representatives wanted Manitoba Hydro to meet with the Land office. A second meeting was set up for January 15 that did not occur.</p> <p>December 19, 2019: Manitoba Hydro sent a copy of the notes from the meeting to Peguis First Nation for review</p>

Community	Date calls made/emails sent, status as of August 21, 2020
	<p>January 7, 2020: Manitoba Hydro staff left a voicemail for a Peguis First Nation representative about setting up a meeting to discuss the draft offset plans for Condition 22 and 26</p> <p>March 31, 2020: Manitoba Hydro and Peguis First Nation representatives had a conference call to discuss the draft offset plans</p> <p>April 6, 2020: Manitoba Hydro sent an email including draft notes from the conference call on March 31, 2020 and asked if the land's office has additional comments on the draft plans</p> <p>June 5, 2020: Manitoba Hydro sent an email to Peguis First Nation providing a revised approach to fulfilling Condition 22</p> <p>June 9, 2020: A Manitoba Hydro tried to call a community representative and left a message. Another message was left by text on June 10, 2020. The community representative indicated they would respond later that day.</p> <p>June 17, 2020: A Peguis First Nation representative participated in the Discussion Forum, and shared concerns regarding Treaty Land Entitlement and the proposed process.</p> <p>July 29, 2020: A Manitoba Hydro representative emailed all MMTP Indigenous communities sharing the draft final CLOMP. The email asked for feedback on the draft final CLOMP by August 17, 2020 and provided a summary of the activities to date.</p>
Roseau River Anishinabe First Nation	November 26, 2019: Manitoba Hydro shared a draft Crown Land Offset Measures Plan with the community.

Community	Date calls made/emails sent, status as of August 21, 2020
	<p>December 6, 2019: Manitoba Hydro tried to call a councillor, but they were away. Manitoba Hydro sent the Chief an email asking if they had received the email from Manitoba Hydro and if they would like to meet.</p> <p>January 15, 2020: Manitoba Hydro left a voicemail message for the Chief.</p> <p>January 15, 2020: Manitoba Hydro left a voicemail message for a councillor.</p> <p>January 28, 2020: Manitoba Hydro tried to call a councillor.</p> <p>January 30, 2020: Manitoba Hydro tried to call a councillor.</p> <p>April 8, 2020: Manitoba Hydro sent an email to Roseau River Anishinabe First Nation regarding the draft Crown land offset plan</p> <p>June 5, 2020: Manitoba Hydro sent an email providing the revised approach to fulfilling Condition 22.</p> <p>June 10, 2020: A Manitoba Hydro representative tried to call the Chief, but he was not in. The Manitoba Hydro representative left a message with the receptionist.</p> <p>July 29, 2020: A Manitoba Hydro representative emailed all MMTP Indigenous communities sharing the draft final CLOMP. The email asked for feedback on the draft final CLOMP by August 17, 2020 and provided a summary of the activities to date.</p>
Sagkeeng First Nation	<p>November 26, 2019: Manitoba Hydro shared a draft Crown Land Offset Measures Plan with the community.</p> <p>November 28, 2019: Sagkeeng First Nation sent a letter requesting funding to review the draft conditions.</p>

Community	Date calls made/emails sent, status as of August 21, 2020
	<p>December 4, 2019: Manitoba Hydro responded to a request for funding to review plans with a letter sent via email. Manitoba Hydro sent a text message and called to follow up. The chief said they would get back to Manitoba Hydro.</p> <p>January 7, 2020: Manitoba Hydro representative called the band office and sent an email to follow up on the December 4, 2019 letter.</p> <p>March 16, 2020: Manitoba Hydro sent an email responding to Sagkeeng First Nation's request for funding for honoraria to support knowledge holders and Elders to attend meetings and share their traditional knowledge and help in providing feedback on Manitoba Hydro's offset plan</p> <p>March 26, 2020: Manitoba Hydro sent an email to the community to follow up on whether Sagkeeng First Nation is able/planning to provide feedback at this time and suggesting potential next steps</p> <p>April 3, 2020: Manitoba Hydro sent an email including a letter providing approval to fund review of Conditions 22 and 26 related to Manitoba-Minnesota Transmission Project Certificate (EC-059) as per the community's proposal</p> <p>April 8, 2020: Manitoba Hydro sent an email to approve a request for an extension on review of Conditions 22 and 26</p> <p>April 22, 2020: Sagkeeng First Nation submits "Sagkeeng First Nation Preliminary Comments on the Draft Crown Land and Wetland Offset Measure Plans for the Manitoba-Minnesota Transmission Project"</p> <p>June 5, 2020: Manitoba Hydro sent an email to Sagkeeng First Nation providing the revised approach to fulfilling Condition 22</p>

Community**Date calls made/emails sent, status as of August 21, 2020**

June 10, 2020: A Manitoba Hydro representative left a message with the Chief. A Manitoba Hydro representative contacted Sagkeeng First Nation legal representation. The Chief indicated that they did receive the June 5th email and will be speaking to Council regarding participation in the June 17 Discussion Forum and putting forth a proposal. They would like a copy of the guidance document regarding submission of a proposal. The Chief also noted that Sagkeeng First Nation may want a bilateral call directly with Manitoba Hydro and Firelight, and whether their funding was to support Firelight involvement. The Manitoba Hydro representative indicated that they would need to include their participation in the workplan and budget.

June 23, 2020: Sagkeeng First Nation submitted a proposal to Manitoba Hydro regarding review of Condition 22

June 25, 2020: Manitoba Hydro sent an email to Sagkeeng First Nation with the letter of approval for funding for the review of the Revised Summary Approach and Draft Final Crown Land Offset Measures Plan.

July 15, 2020: Sagkeeng First Nation submitted comments on Condition 22

July 16, 2020: Manitoba Hydro sent an email asking to discuss comments on Condition 22 further. Sagkeeng First Nation counsel sent an email in response to request to meet

July 16, 2020: Sagkeeng First Nation and Manitoba Hydro sent emails arranging a meeting date to discuss comments on the Summary Approach

July 29, 2020: Manitoba Hydro hosted an online meeting with Sagkeeng First Nation leadership and representatives, and the Firelight Group to discuss Sagkeeng's comments on the Summary Approach document. Firelight Group representatives provided an overview of concerns. Manitoba Hydro asked questions about monitoring preferences and ideas related to the draft final Plan.

Community	Date calls made/emails sent, status as of August 21, 2020
	<p>July 29, 2020: A Manitoba Hydro representative emailed all MMTP Indigenous communities sharing the draft final CLOMP. The email asked for feedback on the draft final CLOMP by August 17, 2020 and provided a summary of the activities to date.</p> <p>August 13, 2020: A Manitoba Hydro representative emailed Sagkeeng First Nation thanking them for participating in the July 29, 2020 discussion of their comments on the Summary Approach and provided a link to the November 2019 initial draft Plan that included a questionnaire asking for feedback on preferred land selection criteria.</p> <p>August 17, 2020: A Sagkeeng First Nation representative emailed Manitoba Hydro comments on the draft final plan for Condition 22.</p> <p>August 19, 2020: A Manitoba Hydro representative emailed Sagkeeng First Nation representatives to clarify information shared in their review of the draft final Plan, and asked for the preference for providing feedback on land selection criteria for Sagkeeng First Nation.</p> <p>August 21, 2020: A Sagkeeng First Nation representative emailed a Manitoba Hydro representative to clarify the information identified by Manitoba Hydro and noted that recommendations for the development of selection criteria were provided in the technical memorandum submitted on July 15, 2020.</p>
Sandy Bay Ojibway First Nation	<p>November 26, 2019: Manitoba Hydro shared a draft Crown Land Offset Measures Plan with the community.</p> <p>December 6, 2019: Manitoba Hydro sent the Chief an email.</p> <p>January 17, 2020: Manitoba Hydro called a community representative, scheduled a meeting for January 31 and sent a link to the draft plans.</p>

Community	Date calls made/emails sent, status as of August 21, 2020
	<p>January 31, 2020: Manitoba Hydro staff met with staff from Sandy Bay Ojibway First Nation, including representatives from Chief and Council. Manitoba Hydro explained the conditions and requested that Sandy Bay Ojibway First Nation review the plans in further detail and get back to Manitoba Hydro with any suggested ways for moving forward.</p> <p>February 5, 2020: Manitoba Hydro sent community representatives a copy of the draft meeting notes from the January 31st meeting to discuss Conditions 22 & 26.</p> <p>February 20, 2020: Manitoba Hydro sent community representatives an email inquiring if anyone from Sandy Bay Ojibway First Nation had the chance to review the information provided related to License Conditions 22 & 26.</p> <p>April 6, 2020: Manitoba Hydro called a community representative to inquire if the community had any input on Conditions 22 & 26. The community representative had no issues or concerns, but they were going to check with one of their colleagues to see if they had any additional input. They committed to getting back to Manitoba Hydro with information by the end of the week and if they did not, there were no concerns related to the conditions to be noted.</p> <p>June 5, 2020: Manitoba Hydro sent an email providing the revised approach to fulfilling Condition 22.</p> <p>June 9, 2020: A Manitoba Hydro representative called a community representative and left a message for them to return their call on June 8th and sent a text message to them on June 9th. The Manitoba Hydro representative has not heard back. A Manitoba Hydro representative called the Band office on June 8th, however, it is closed. A Manitoba Hydro representative called the Chief on June 10th, however, they did not answer, and their mailbox is full.</p>

Community	Date calls made/emails sent, status as of August 21, 2020
	<p>July 29, 2020: A Manitoba Hydro representative emailed all MMTP Indigenous communities sharing the draft final CLOMP. The email asked for feedback on the draft final CLOMP by August 17, 2020 and provided a summary of the activities to date.</p>
Shoal Lake No. 40 FN	<p>November 26, 2019: Manitoba Hydro shared a draft Crown Land Offset Measures Plan with the community.</p> <p>December 6, 2020: Manitoba Hydro staff tried to call a community representative, but they were in a meeting in Winnipeg, so Manitoba Hydro sent them an email.</p> <p>January 30, 2020: Manitoba Hydro spoke with a community representative who shared that they have an election in early March and would like to have Manitoba Hydro either attend a community meeting or meet with Chief and Council after the election. Manitoba Hydro shared that they have requested an extension from CER, but they do not know if they will receive the extension and that comments are currently expected by February 17. The community representative indicated that there has not been a lot of interest from community members in reviewing the draft plans as it is a discussion for leadership.</p> <p>April 8, 2020: Manitoba Hydro sent an email regarding the draft Crown Land Offset Plan</p> <p>June 5, 2020: Manitoba Hydro sent an email providing the revised approach to fulfilling Condition 22</p> <p>June 10, 2020: A Manitoba Hydro representative tried to call the community band office, but the community representative was not in. The Manitoba Hydro representative sent an email.</p>

Community	Date calls made/emails sent, status as of August 21, 2020
	<p>July 29, 2020: A Manitoba Hydro representative emailed all MMTP Indigenous communities sharing the draft final CLOMP. The email asked for feedback on the draft final CLOMP by August 17, 2020 and provided a summary of the activities to date.</p>
Sioux Valley Dakota Nation	<p>November 26, 2019: Manitoba Hydro shared a draft Crown Land Offset Measures Plan with the community.</p> <p>December 5, 2019: Manitoba Hydro left a phone message for the Chief. Manitoba Hydro emailed the band office to confirm correct addresses and receipt of the email.</p> <p>Two additional follow up calls were made in January with no response received.</p> <p>June 5, 2020: Manitoba Hydro sent an email providing the revised approach to fulfilling Condition 22</p> <p>June 10, 2020: A Manitoba Hydro representative tried to call the community band office, but the community representative was not in. The Manitoba Hydro representative sent an email.</p> <p>July 29, 2020: A Manitoba Hydro representative emailed all MMTP Indigenous communities sharing the draft final CLOMP. The email asked for feedback on the draft final CLOMP by August 17, 2020 and provided a summary of the activities to date.</p>
Swan Lake First Nation	<p>November 26, 2019: Manitoba Hydro shared a draft Crown Land Offset Measures Plan with the community.</p> <p>December 6, 2019: Manitoba Hydro tried to call a councillor, but they were away. Manitoba Hydro sent the councillor an email asking if they had received the email from Manitoba Hydro and if they would like to meet. Swan Lake First Nation representatives sent an email in response.</p>

Community	Date calls made/emails sent, status as of August 21, 2020
	<p>December 9, 2019: Manitoba Hydro sent an email to Swan Lake First Nation in response to their December 6 email.</p> <p>January 24, 2020: Manitoba Hydro met with Swan Lake First Nation Chief and Council.</p> <p>March 16, 2020: Manitoba Hydro sent an email to Swan Lake First Nation to cancel a meeting that was scheduled for March 25th, 2020 due to travel restrictions.</p> <p>April 8, 2020: Manitoba Hydro sent an email to Swan Lake First Nation to follow-up on the draft Crown Land offset plan</p> <p>June 5, 2020: Manitoba Hydro sent an email to Swan Lake First Nation providing the revised approach to fulfilling Condition 22</p> <p>June 10, 2020: A Manitoba Hydro representative tried to call the community band office and there was no response. The Manitoba Hydro representative tried to call the cell phone of one of the representatives but there was no answer and the mailbox was full.</p> <p>July 29, 2020: A Manitoba Hydro representative emailed all MMTP Indigenous communities sharing the draft final CLOMP. The email asked for feedback on the draft final CLOMP by August 17, 2020 and provided a summary of the activities to date.</p>
Waywayseecappo First Nation	<p>November 26, 2019: Manitoba Hydro shared a draft Crown Land Offset Measures Plan with the community.</p> <p>December 6, 2019: Manitoba Hydro emailed the Chief to confirm Waywayseecappo First Nation's receipt of Manitoba Hydro's email regarding MMTP Conditions 22 & 26, as well as an upcoming</p>

Community	Date calls made/emails sent, status as of August 21, 2020
	<p>Monitoring meeting. The Chief confirmed receipt of the information. Someone from the community may be attending the next MMTP Monitoring Committee meeting.</p> <p>January 16, 2020: Manitoba Hydro emailed the Chief to follow up to see if anyone has reviewed the MMTP conditions.</p> <p>January 30, 2020: Manitoba Hydro called the Band office and the Chief's cell to inquire about the previous emails sent regarding the conditions and to get feedback the community may have on them. There was no answer at either number and the mailboxes were full or out of service.</p> <p>April 6, 2020: Manitoba Hydro called Chief to inquire if the community had any additional input on Conditions 22 & 26. Chief indicated that their community is fine with the conditions and that they have no additional input to provide.</p> <p>June 5, 2020: Manitoba Hydro sent an email providing the revised approach to fulfilling Condition 22</p> <p>June 10, 2020: A Manitoba Hydro representative spoke to the Chief on June 10th. They did not receive the email from Manitoba Hydro on June 5th, so the Manitoba Hydro representative re-sent the email. The Manitoba Hydro representative provided a summary of the revised approach to Condition 22 and informed them of the discussion forum taking place on June 17th at 9am. The Chief did not indicate if anyone from their nation would be in attendance.</p> <p>July 29, 2020: A Manitoba Hydro representative emailed all MMTP Indigenous communities sharing the draft final CLOMP. The email asked for feedback on the draft final CLOMP by August 17, 2020 and provided a summary of the activities to date.</p>

Appendix B-2

Appendix B-2 contains the names of contact persons who were consulted at Federal/Provincial agencies.

Provincial

A November 28, 2019 letter was sent to Lori Stevenson, Director, Lands Branch, requesting Manitoba's feedback on the proposed Manitoba-Minnesota Transmission Project – Crown Land Offset Measures Plan, pursuant to Condition 22 of the National Energy Board's ("NEB") Certificate of Public Convenience and Necessity EC-059 (which was received June 18th, 2019).

A response was received from Lands Branch on March 5, 2020.

On June 9, 2020 an email was sent to Lori Stevenson, Director – Lands Branch, requesting Manitoba's feedback on the proposed revised approach to fulfilling Condition 22 of the Manitoba-Minnesota Transmission Project Certificate of Public Convenience and Necessity No. EC-059.

On August 13, 2020 an email was sent to Lori Stevenson, Director – Lands Branch with the draft final Crown Lands Offset Measures Plan (CLOMP) for the Manitoba-Minnesota Transmission Project and a draft Memorandum of Agreement for review.

On August 28, 2020 a letter in support of Manitoba Hydro's proposal to acquire suitable private land for conversion to Provincial Crown land as part of its Crown Lands Offset Measures Plan was received from Manitoba. The letter indicated that under the provisions of the attached Draft MOA, lands transferred by Manitoba Hydro to the Province of Manitoba would be accepted by Order in Council and removed from disposition pursuant to The Crown Lands Act in order to preserve those lands as Provincial Crown land in support of ongoing traditional uses by Indigenous People. I am prepared to recommend execution of the attached draft MOA, and when approved will be in a position to carry out the transactions contemplated therein.

Federal

The following letters were sent to federal officials, requesting feedback on the proposed Crown Land Offset Measures Plan, pursuant to Condition 22:

A November 29, 2019 letter to Mr. Sebastien Labelle, Director General, Major Projects Management Office, Natural Resources Canada;

A November 28, 2019 letter to Carmen Kardoes, Regional Director, Governance and Community Development Indigenous and Northern Affairs Canada;

A November 28, 2019 letter to Mr. Paul Gregoire, Environment and Climate Change Canada.

A June 9, 2020 letter to Mr. Sebastien Labelle, Director General, Major Projects Management Office, Natural Resources Canada

A June 9, 2020 email to Diana Watson, Director, Lands and Economic Development, Indigenous Services Canada / Government of Canada and Emmanuel Atiomo, Director, Lands and Economic Development for Indigenous and Northern Affairs Canada.

A response was received on December 2, 2019 from Environment and Climate Change Canada.

A response was received on January 10, 2020 from Natural Resources Canada.

A response was received on January 3, 2020 from Diana Watson, Director, Lands and Economic Development, Indigenous Services Canada / Government of Canada.

A response was received on January 21, 2020 from Diana Watson, Director, Lands and Economic Development, Indigenous Services Canada / Government of Canada.

A response was received on January 22, 2020 from Emmanuel Atiomo, Director, Lands and Economic Development for Indigenous and Northern Affairs Canada.

A response was received on June 10, 2020 from Diana Watson, Director, Lands and Economic Development, Indigenous Services Canada / Government of Canada.

A response was received on June 10, 2020 from Emmanuel Atiomo, Director, Lands and Economic Development for Indigenous and Northern Affairs Canada.

A response was received on July 30, 2020 from Sebastien Labelle, Director General, Major Projects Management Office, Natural Resources Canada

B- 2 Provincial and federal authorities consulted on the plan

Contact and title	Agency
Sebastien Labelle, Director General	Major Projects Management Office, Natural Resources Canada
Carmen Kardoes, Regional Director	Governance & Community Development, Indigenous Services Canada, Manitoba Region/Government of Canada
Emmanuel Atiomo, Director	Lands and Economic Development for Indigenous and Northern Affairs Canada.
Diana Watson, Director	Lands and Economic Development, Indigenous Services Canada / Government of Canada
Paul Gregoire, A/Manager Regulatory Affairs Section	Canadian Wildlife Service, Prairie Region, Environment and Climate Change Canada
Lori Stevenson, Director	Lands Branch Manitoba Agriculture and Resource Development

Appendix C: Feedback received from Indigenous communities and Provincial and Federal authorities

Appendix C: Feedback received from Indigenous communities and Provincial and Federal authorities

See Tables C-1 to C-7 for specific feedback shared by Indigenous communities and Manitoba Hydro’s response.

C-1 Preliminary review from Animakee Wa Zhing #37 First Nation regarding the November 2019 draft Plan (Animakee Wa Zhing #37, 2019)

Category of Concern	Description of any issues or concerns raised regarding the plan from Animakee Wa Zhing #37 First Nation	How Manitoba Hydro has addressed or responded to issues or concerns raised regarding the plan
Funding to review draft plans	That AWZ does not have the financial or technical resources to meaningfully review the offset plans. To enable that review AWZ is requesting \$15,000 in preliminary capacity funding to retain technical support to review the plans and engage with members;	<p>Manitoba Hydro has offered the following to AWZ to enable review of the draft plans:</p> <ul style="list-style-type: none"> • An honorarium as per the Manitoba Hydro Reimbursement Policy to those Elders or knowledge holders who are interested in reviewing the draft plans • Funding to support a community meeting to discuss the draft plans • A request for AWZ to submit a more detailed budget of their proposed • \$15,000 requested to support review of the draft plans.

Category of Concern	Description of any issues or concerns raised regarding the plan from Animakee Wa Zhing #37 First Nation	How Manitoba Hydro has addressed or responded to issues or concerns raised regarding the plan
Definition of Permanent Loss	The draft plans have been submitted without baseline data from First Nation's land use, relationship to and responsibilities to lands and wetlands;	<p>From a technical memo submitted by AWZ on March 11, 2019 Manitoba Hydro understands the following are important to AWZ:</p> <ul style="list-style-type: none"> • The gathering of plants and medicines on land and the harvest of wild rice in the water • Hunting for deer, waterfowl, and other animals, • Fishing for multiple species is important.
	The draft plan does not adequately offset lands available for traditional use by Indigenous peoples as AWZ prefers that Manitoba Hydro should include the entire cleared right-of-way in its calculations for determining the total amount of Crown land considered permanently lost for offsets required;	<p>Rights-based activities can continue to occur along the right-of-way once construction of the Project is completed, except during short periods of time when maintenance activities are underway</p> <p>Manitoba Hydro has identified permanent loss as those areas where rights-based activities can no longer take place.</p>
	Manitoba Hydro should include the entire cleared right-of-way in its calculations for determining the total amount of Crown land considered permanently lost for offsets required;	It is Manitoba Hydro's position that the area of Crown land permanently lost is equivalent to the surface area under each of the 139 towers on Crown land traversed by the Project. This area totals 24.1 ha.

Category of Concern	Description of any issues or concerns raised regarding the plan from Animakee Wa Zhing #37 First Nation	How Manitoba Hydro has addressed or responded to issues or concerns raised regarding the plan
Process of Funding	<p>The process for offsetting Crown land and community's role in the land selection and acquisition process once the Manitoba government receives funds to purchase offset lands.</p>	<p>Manitoba Hydro has revised the approach to include community input into land selection criteria as well as input on specific parcels of land being considered for purchase.</p>

C-2 Preliminary comments from the Manitoba Metis Federation regarding the November 2019 draft Plan

Category of concern	Description of any issues or concerns raised regarding the plan from the Manitoba Metis Federation ¹²	How Manitoba Hydro has addressed or responded to issues or concerns raised regarding the plan
	A lack of consultation on the draft offset plan as required by the plain language of the Conditions (February 14, 2020 letter to Manitoba Hydro)	Manitoba Hydro respectfully disagrees with the MMF’s view that there has been a lack of consultation as required by the plain language of the Conditions. Please see the response provided in Manitoba Hydro’s letters to the MMF on March 11, 2020 and July 24, 2020 (Section 2 The requirements of Condition 22.
	Hydro’s calculation of the permanent loss of Crown land available for traditional use (February 14, 2020 letter)	Manitoba Hydro has revised the overall process for offsetting Crown lands permanently lost as a result of the Project. This includes reconsidering the multiplier used in the formula.
Effectiveness of Offset Measure	Hydro’s proposed “measure” to offset permanent loss of Crown land is unenforceable and does not address 3 of the 7 Condition requirements (February 14, 2020 letter)	Manitoba Hydro is working to develop a final plan that will include a legally enforceable arrangement with the Province under the Crown Lands Act. This final plan will be developed with the intent to meet all components of the Condition.

¹² the MMF has advised that the information provided in letters sent to date does not constitute ‘consultation’. These concerns have been drawn from letters filed with CER and Manitoba Hydro recognizes that this is not a complete list.

Category of concern	Description of any issues or concerns raised regarding the plan from the Manitoba Metis Federation ¹²	How Manitoba Hydro has addressed or responded to issues or concerns raised regarding the plan
Effectiveness of Offset Measure	Concern about the required offset or compensation going to the provincial Crown (May 13, 2020 letter to CER)	Manitoba Hydro has revised the approach to acquiring land for offsetting purposes to not rely on the Province for securing land parcels but instead Manitoba Hydro would make private land purchases, with community input, review and feedback on land selection, followed by conversion of those parcels to Crown lands through an agreement with the Province of Manitoba
Effectiveness of Offset Measure	Concern regarding adopting a “pan-Indigenous” approach, to be implemented at the whim of the Manitoba Government, that does not correlate to the MMTP’s specific impacts on the Manitoba Metis Community in any way, shape, or form (from a May 13, 2020 letter to CER)	Based on feedback received, the revised plan provides for a collaborative land parcel review process. This process not only increases opportunities for the MMF, but also allows for participation in key aspects of the process such as putting forward land parcels of interest to Metis citizens, reviewing and commenting on proposed land parcels. The approach puts forward a structure that does not have an onerous governance structure but is one that still affords Indigenous communities the ability to influence the selection criteria, land characteristics and participate in the land parcel review and selection process.

Category of concern	Description of any issues or concerns raised regarding the plan from the Manitoba Metis Federation ¹²	How Manitoba Hydro has addressed or responded to issues or concerns raised regarding the plan
	<p>A preference for Manitoba Hydro to work directly with the MMF rather than through the MMTP Monitoring Committee (shared at a December 16, 2019 MMTP Monitoring Committee meeting)</p>	<p>Manitoba Hydro will provide opportunities for future engagement on draft offset plans directly with individual communities. Following the January 8, 2020 MMTP Monitoring Committee meeting, Manitoba Hydro communicated directly with communities, and not the Committee, for input on the November 2019 draft Plan.</p>

C-3 Preliminary comments from Sagkeeng First Nation regarding the adequacy of Manitoba Hydro’s responses to Sagkeeng concerns regarding the November 2019 draft Crown Land Offset Measures Plan and Manitoba Hydro’s responses (Sagkeeng First Nation with Firelight Research Inc., 2020) ¹³

Category of Concern	Description of any issues or concerns raised regarding the November 2019 plan	Community's recommended measures to address concern	How Manitoba Hydro has addressed or responded to issues or concerns raised regarding the plan	Community's response to Manitoba Hydro's response	Manitoba Hydro's response to community's response
Concern with consultation	<i>"Concern: Lack of Indigenous engagement and participation. Sagkeeng has concerns that Indigenous consultation to date has been insufficient for our meaningful engagement in the identification of residual project effects and the development of appropriate offset measures. As stewards of our lands and waters, Sagkeeng requests that we are engaged in key aspects of the offset plans, including the completion of a rigorous and comprehensive Traditional Land and Resource Use study within the Project area, as well as collaborative selection of appropriate offsetting locations, measures and quantum. "</i> ¹³	Recommendation 1 from Table A1.1: "Manitoba Hydro to work with Sagkeeng to provide the time and resources necessary to conduct a comprehensive Traditional Land and Resource Use Study for the Project-affected area, with appropriate methodology and confidentiality agreements." ^{2 13}	"Sagkeeng First Nation had the opportunity to undertake a TK study and design it as they saw fit. Following conclusion of that study, a supplemental study was completed. The concerns and input provided by Sagkeeng First Nation resulting from that study as well as other engagement has been taken under consideration in the development of this plan." ¹³	"Insufficiently addressed. Sagkeeng has repeatedly made it clear that the O-Pimatiziwin 2 report represents only a preliminary scoping report and is not sufficient to meet the requirements of a robust traditional land and resource use study (Sagkeeng First Nation 2018, 2015, 2020). Sagkeeng's repeated requests for a traditional land and resource use study for the MMTP remain unaddressed.." ¹³	To identify residual adverse effects, Manitoba Hydro has continued to engage Sagkeeng First Nation throughout the routing and environmental assessment process for the Project and during construction by: <ul style="list-style-type: none"> • Funding a Traditional Knowledge study for the (O-Pimatiziiwin 2) including a supplementary report • Offering funding to support a community meeting to discuss in detail the EPP for the Project including and any potential mitigation measures that may be required • Funding a community coordinator position • Organizing a field tour • Offering funding to review various plans for the Project including the Environmental Protection Plan • Opportunities to participate in the MMTP Monitoring Committee Manitoba Hydro has engaged with Sagkeeng First Nation in the following ways to get any feedback on the draft plan including input on what appropriate offset measures might be: <ul style="list-style-type: none"> • Various communication (phone calls, emails) • Offering funding to support a community meeting to discuss the draft plans • Funding a proposal from Sagkeeng First Nation to hire a consultant to do a review of Conditions 22 and 26 and work with the community to develop feedback for Manitoba Hydro.

¹³ Sagkeeng First Nation with Firelight Research Inc. (2020, August 17). Sagkeeng First Nation Preliminary Comments on the Draft Final Crown Land Offset Measures Plan for the Manitoba-Minnesota Transmission Project. Sagkeeng First Nation, MB, Canada.

Category of Concern	Description of any issues or concerns raised regarding the November 2019 plan	Community's recommended measures to address concern	How Manitoba Hydro has addressed or responded to issues or concerns raised regarding the plan	Community's response to Manitoba Hydro's response	Manitoba Hydro's response to community's response
		<p>Recommendation 2 from Table A1.1: "Manitoba Hydro to revise the governance structure for the Crown land and wetland offset plans to include for meaningful Sagkeeng engagement and participation."¹³</p>	<p>"Based on feedback received, the revised plan provides for a land parcel review process. This process not only increases opportunities for Sagkeeng First Nation and other communities to participate, but also allows for participation in key aspects of the process such as putting forward land parcels of interest, reviewing and commenting on proposed land parcels. The approach puts forward a structure that does not have an onerous governance structure but is one that still affords all Indigenous communities the ability to influence the selection criteria, land characteristics and participate in the land parcel review and selection process."¹³</p>	<p>"Insufficiently addressed. Manitoba Hydro has identified opportunities for Sagkeeng to provide feedback on offsetting criteria and potential offset parcels for Crown land. Concerns remain about the adequacy of community engagement and the lack of a governance structure that includes a role for Sagkeeng in the decision-making process (please refer to preliminary comments on the Summary Approach)."¹³</p>	<p>Manitoba Hydro has responded to Sagkeeng First Nation on August 19th asking for Sagkeeng First Nation's preference for providing input on land parcel criteria.</p> <p>Manitoba Hydro's current process involves an opportunity for Indigenous communities to submit their own parcels of interest for consideration in the land parcel selection process and includes a commenting period for all parcels considered. All eligible parcels will be posted on an accessible website and Sagkeeng First Nation can both view comments from other communities and provide their own comments.</p> <p>Manitoba Hydro is ultimately responsible for implementation of the Plan as a regulatory obligation; therefore, relying on external bodies to fulfil the Plan or consensus models of decision making introduces risks. The revised Plan outlines a mechanism for the selection of offset land that is effective in striking a balance between the certainty Manitoba Hydro requires to be compliant with regulatory obligations and being inclusive of preferences shared by Indigenous communities, while also considering the interests of certainty and efficiency of process.</p>
		<p>Recommendation 3 from Table A1.1: "Manitoba Hydro to work with Sagkeeng to develop a collaborative approach to identify criteria for selecting offsetting measures and locations based on Indigenous knowledge, perspectives, and priorities."¹³</p>	<p>"Please refer to the response to Recommendation 2"¹³</p>	<p>"Insufficiently addressed."¹³</p>	<p>Manitoba Hydro has responded to Sagkeeng First Nation on August 19th, 2020 asking for preference for providing input on land parcel criteria.</p>
		<p>Recommendation 4 from Table A1.1: "Manitoba</p>	<p>"Manitoba Hydro will consider funding to support reasonable</p>	<p>"Insufficiently addressed. Manitoba</p>	<p>Manitoba Hydro has updated the monitoring plan to include funding for Indigenous Cultural</p>

Category of Concern	Description of any issues or concerns raised regarding the November 2019 plan	Community's recommended measures to address concern	How Manitoba Hydro has addressed or responded to issues or concerns raised regarding the plan	Community's response to Manitoba Hydro's response	Manitoba Hydro's response to community's response
		Hydro to employ Sagkeeng cultural experts, knowledge holders, and Guardians in the project team to identify and protect cultural resources and values encountered during construction, rehabilitation, and offsetting." ¹³	costs to support parcel review but is not anticipating additional costs to employ individual community members. Reasonable costs may include honorariums to support knowledge holders/cultural experts in sharing their knowledge and feedback." ¹³	Hydro has not identified a role for Sagkeeng in monitoring or adaptive management actions under the revised Summary Approach." ¹³	representatives to participate in both an initial assessment of each offset parcel purchased and in review of parcel use to gauge the overall effectiveness of the offset lands in supporting traditional use from a cultural values perspective. We would encourage Sagkeeng First Nation members to apply to participate. Please refer to section 3.6 Monitoring & Reporting.
Concern with offset calculation	"Concern: Underestimation of residual project effects leading to inadequate offsetting area calculation. Sagkeeng has substantial concerns that the offsetting area as calculated will be insufficient to account for long-term impacts to Crown land use and wetland function as a result of the transmission line and maintenance of the new transmission line corridor, including associated impacts to Indigenous rights and interests. This concern arises primarily from an underestimation of residual project effects and the exclusion of indirect and cumulative project effects from offset value calculations. As a result of Manitoba Hydro's minimization of such effects, we have determined that the draft plans have severely underestimated the amount of offset Crown Land and wetlands required. By Sagkeeng's	Recommendation 5 from Table A1.1: "Sagkeeng requests that Manitoba Hydro makes appropriate changes to the Crown land and wetland offset plans to account for residual effects of the transmission line corridor, including overhead transmission lines and maintenance of the ROW. This calculation should include, at a minimum: • 457.7 hectares of wetland habitat, representing the area of physical disturbance associated with Project construction, operation, and maintenance that overlaps with sensitive wetland habitat (Manitoba Hydro 2019b, p.10-46) • 550 hectares of Crown land, representing 55 km of transmission line (18 km within existing ROWs and 37 km of new ROW) with a corridor width of 100 m " ¹³	"Manitoba Hydro is setting dedicated funds to support the development of a Trust to be used to offset lands. The Trust will result in the purchase of at least 96.4 ha of land. This increase in area works to address concerns shared during draft Plan engagement." ¹³	"Insufficiently addressed. This increase from 24.1 ha to 96.4 ha is not sufficient to offset project impacts to 550 ha of Crown land. Furthermore, this increase in area reflects the application of an offsetting ratio, not a change in the calculation of residual project effects. Offsetting ratios are intended to address uncertainty in the effectiveness of offsetting measures, not to compensate for identified deficiencies in the calculation of residual project effects." ¹³	Manitoba Hydro's position is that the permanent loss of Crown land is limited to the area under towers. Manitoba Hydro agrees that the multiplier is applied to address concerns related to uncertainty of the effectiveness of the measure.

Category of Concern	Description of any issues or concerns raised regarding the November 2019 plan	Community's recommended measures to address concern	How Manitoba Hydro has addressed or responded to issues or concerns raised regarding the plan	Community's response to Manitoba Hydro's response	Manitoba Hydro's response to community's response
	<p>calculation, 457.7 hectares of wetland, and 550 hectares of Crown land (increases of 140,299% and 2,182% respectively) must be offset to meet minimum requirements. Furthermore, the offsetting ratios in the draft Crown land and wetland offset plans are inadequate to support a no net loss objective." Table A1.1</p>	<p>Recommendation 6 from Table A1.1: "Manitoba Hydro to work with Sagkeeng to develop a framework for assessing ecological and cultural components that integrates Indigenous knowledge, science, and the values identified by Sagkeeng community members." ¹³</p>	<p>"Manitoba Hydro would like to work with Sagkeeng First Nation and other Communities. Manitoba Hydro is seeking input on land selection criteria." ¹³</p>	<p>"Insufficiently addressed. Manitoba Hydro has identified opportunities to provide feedback on the identification of offsetting criteria, however, this does not constitute a collaborative framework for assessing ecological and cultural values identified by Sagkeeng community members." ¹³</p>	<p>Manitoba Hydro has updated the monitoring plan to include funding for Cultural representatives to participate in both an initial assessment of each offset parcel purchased and in review of parcel use to gauge the overall effectiveness of the offset lands in supporting traditional use from a cultural values perspective. We would encourage Sagkeeng First Nation members to apply to participate.</p> <p>Please refer to section 3.6 Monitoring & reporting.</p>
		<p>Recommendation 7 from Table A1.1: "Manitoba Hydro to apply a minimum offsetting ratio of at least 4:1 for Crown lands and wetland habitat, where offsets are of similar ecological and cultural function to the values lost to development." ¹³</p>	<p>"Manitoba Hydro has accepted Sagkeeng First Nation's comments and has applied a 4:1 multiplier to address uncertainty of effectiveness, indirect and cumulative effects. The measure put forward in this document works alongside other measures already in place, such as routing in existing transmission corridors and away from areas of concern, the development of areas for additional protection such as Environmentally Sensitive Sites and rehabilitation of disturbed areas." ¹³</p>	<p>"Sagkeeng is prepared to accept the minimum offsetting ratio of at least 4:1 to address uncertainty in the effectiveness of offsetting measures. The application of this ratio does not address deficiencies in the calculation of residual project effects (see recommendation #5). Sagkeeng accepts this minimum offsetting ratio with the understanding that offsets must be of similar or greater ecological and cultural function to the values lost to development." ¹³</p>	<p>Noted.</p>
		<p>Recommendation 8 from Table A1.1: "Manitoba Hydro to identify and share</p>	<p>"Please refer to the response to recommendation #7"¹³</p>	<p>"Insufficiently addressed. The selected offsetting ratio of 4:1</p>	<p>Over half of the permanently lost Crown lands are located along the Red River Floodway. This area is regularly mowed and maintained to enable</p>

Category of Concern	Description of any issues or concerns raised regarding the November 2019 plan	Community's recommended measures to address concern	How Manitoba Hydro has addressed or responded to issues or concerns raised regarding the plan	Community's response to Manitoba Hydro's response	Manitoba Hydro's response to community's response
		for review and comment with Sagkeeng, higher offsetting ratios for locations where equivalency is low and/or uncertainty is high” ¹³		does not address cases where offsetting equivalency is low.” ¹³	operation of the Floodway. It is likely that some of the offset lands that will be purchased will better support traditional activities than those currently supported in this heavily managed area. It is Manitoba Hydro’s understanding that, using the criteria currently selected, land parcels purchased will be of higher cultural function than that provided by the Red River Floodway. Accordingly, Manitoba Hydro does not believe a higher ratio is warranted.
Concern with the proposed offset plan process	"Concern: Inappropriate offset measures. From Sagkeeng’s perspective, a monetary payment to the Province of Manitoba, or a designated agency, is not an appropriate offset measure. This approach does not support Indigenous engagement and participation, nor does it provide Sagkeeng with assurances that offsetting funds will be properly used to maintain, restore or compensate for Sagkeeng rights and interests impacted by the permanent loss of Crown lands and wetland habitat in our traditional and ancestral territories.” ¹³	<p>Recommendation 9 “Manitoba Hydro to provide Sagkeeng the time and resources necessary to collaboratively develop an offset plan that supports the retention and regaining of ecological and cultural function resembling that of Crown land and wetland habitat permanently impacted by the Project. Sagkeeng engagement in the development of the offset plan should include, but not be limited to identification of appropriate offsetting areas, the selection and implementation of restoration treatments, monitoring of restoration results, and engagement in the development of adaptive management responses.”¹³</p> <p>Recommendation 10 from Table A1.1: “Manitoba Hydro to develop a governance structure for implementation of the</p>	<p>“Manitoba Hydro has provided funding to Sagkeeng First Nation to refer and make recommendations on this Plan. That review process has influenced this approach. We welcome comments on the criteria put forward in this document.”¹³</p> <p>“Please refer to the response to Recommendation”¹³</p>	<p>“Partially addressed. Sagkeeng acknowledges that Manitoba Hydro has revised offset measures to no longer include a monetary payment to the Province of Manitoba. The opportunity to comment, however, does not constitute collaborative development. Sagkeeng has outstanding concerns regarding the level of community engagement described in this Plan (please refer to comments on the Summary Approach).”¹³</p> <p>“Insufficiently addressed.”¹³</p>	<p>Manitoba Hydro has received comments on the initial draft plan shared in November of 2019 and the Summary Approach shared in June 5, 2020. The comments provided by Sagkeeng First Nation made in these early review documents influenced this final plan (see above comments). Manitoba Hydro met with Sagkeeng First Nation leadership and representatives on July 29, 2020 to ask questions about comments previously received and seek feedback on specific issues related to their comments, including preferences for criteria and monitoring. Manitoba Hydro has received “Sagkeeng First Nation Preliminary Comments on the Draft Final Crown Land Offset Measures Plan for the Manitoba-Minnesota Transmission Project” on August 17, 2020. Comments provided in this document have been considered and have also shaped this final plan (see section 3.6 Monitoring & reporting)</p> <p>Manitoba Hydro has responded to Sagkeeng First Nation on August 19th asking for Sagkeeng First Nation’s preference for providing input on land parcel criteria.</p>

Category of Concern	Description of any issues or concerns raised regarding the November 2019 plan	Community's recommended measures to address concern	How Manitoba Hydro has addressed or responded to issues or concerns raised regarding the plan	Community's response to Manitoba Hydro's response	Manitoba Hydro's response to community's response
		<p>offset plan that supports Sagkeeng engagement and participation".¹³</p>			<p>Manitoba Hydro's current process involves an opportunity for Indigenous communities to submit their own parcels of interest for consideration in the land parcel selection process and includes a commenting period for all parcels considered. All eligible parcels will be posted on an accessible website and Sagkeeng First Nation can both view comments from other communities and provide their own comments.</p> <p>Manitoba Hydro is ultimately responsible for implementation of the Plan as a regulatory obligation; therefore, relying on external bodies to fulfil the Plan or consensus models of decision making introduces risks. The revised Plan outlines a mechanism for the selection of offset land that is effective in striking a balance between the certainty Manitoba Hydro requires to be compliant with regulatory obligations and being inclusive of preferences shared by Indigenous communities, while also considering the interests of certainty and efficiency of process.</p>
		<p>Recommendation 11 from Table A1.1: "Manitoba Hydro to work with Sagkeeng to develop an Indigenous knowledge-based approach to monitoring impacts and offsetting results, including a meaningful role for Sagkeeng in adaptive management decisions."¹³</p>	<p>"Manitoba Hydro will consider funding to support reasonable costs to support parcel review, but is not anticipating additional costs to employ individual community members. Reasonable costs may include honorariums to support knowledge holders/cultural experts."¹³</p>	<p>"Insufficiently addressed. No monitoring or adaptive management activities have been identified."¹³</p>	<p>Manitoba Hydro has updated the monitoring plan to include funding for Cultural representatives to participate in both an initial assessment of each offset parcel purchased and in review of parcel use to gauge the overall effectiveness of the offset lands in supporting traditional use from a cultural values perspective. We would encourage Sagkeeng First Nation members to participate. Please refer to section 3.6 Monitoring & reporting.</p>
		<p>Recommendation 12 from Table A1.1: "Manitoba Hydro to identify sufficient funding to cover all costs of long-term management and monitoring, including a</p>	<p>"Manitoba Hydro will consider funding to support reasonable costs to support parcel review, but is not anticipating additional costs to employ individual community members. Reasonable costs may include</p>	<p>"Insufficiently addressed. No monitoring or adaptive management activities have been identified."¹³</p>	<p>Manitoba Hydro has updated the monitoring plan to include funding for Cultural representatives to participate in both an initial assessment of each offset parcel purchased and in review of parcel use to gauge the overall effectiveness of the offset lands in supporting traditional use from a cultural values</p>

Category of Concern	Description of any issues or concerns raised regarding the November 2019 plan	Community's recommended measures to address concern	How Manitoba Hydro has addressed or responded to issues or concerns raised regarding the plan	Community's response to Manitoba Hydro's response	Manitoba Hydro's response to community's response
		role for Sagkeeng Guardians." ¹³	honorariums to support knowledge holders/cultural experts." ¹³		perspective. We would encourage Sagkeeng First Nation members to participate. Please refer to section 3.6 Monitoring & reporting

C-4 Response to Sagkeeng First Nation Preliminary Comments on the adequacy of Manitoba Hydro’s responses to Sagkeeng concerns regarding the June 2020 Summary Approach and draft final Plan. (Sagkeeng First Nation with Firelight Research Inc., 2020) ¹⁴

Category of Concern	Description of any issues or concerns raised regarding the June 2020 Summary Approach	Community's comments on Adequacy of Revisions to the Draft Final Plan	Manitoba Hydro's response to community comments on Adequacy of Revisions to the Draft Final Plan
Concern with consultation	"Lack of a comprehensive traditional land and resource use study: Sagkeeng has concerns that Indigenous consultation to date has been insufficient for adequate identification of residual project effects and the development of appropriate offset measures. Sagkeeng reiterates requests for the completion of a rigorous and comprehensive Traditional Land and Resource Use study within the Project area to inform the development of appropriate offset measures." ¹⁴	"Manitoba Hydro has yet to provide a response. Based on the content of the draft final Crown Land Offset Measures Plan, recommended measures for a comprehensive traditional land and resource use study have not been adopted. This concern has not been adequately addressed." ¹⁴	To identify residual adverse effects, Manitoba Hydro has continued to engage Sagkeeng First Nation throughout the routing and environmental assessment process for the Project and during construction by: <ul style="list-style-type: none"> • Funding a Traditional Knowledge study for the (O-Pimatiziiwin 2) including a supplementary report • Offering funding to support a community meeting to discuss in detail the EPP for the Project including and any potential

¹⁴ Sagkeeng First Nation with Firelight Research Inc. (2020, August 17). Sagkeeng First Nation Preliminary Comments on the Draft Final Crown Land Offset Measures Plan for the Manitoba-Minnesota Transmission Project. Sagkeeng First Nation, MB, Canada.

Category of Concern	Description of any issues or concerns raised regarding the June 2020 Summary Approach	Community's comments on Adequacy of Revisions to the Draft Final Plan	Manitoba Hydro's response to community comments on Adequacy of Revisions to the Draft Final Plan
			<p>mitigation measures that may be required</p> <ul style="list-style-type: none"> • Funding a community coordinator position • Organization of a field tour • Offering funding to review various plans for the Project including the Environmental Protection Plan • Opportunities to participate in the MMTP Monitoring Committee <p>Manitoba Hydro has engaged with Sagkeeng First Nation in the following ways to get feedback on the draft plan including input on what appropriate offset measures might be:</p> <ul style="list-style-type: none"> • Various communication (phone calls, emails) • Offering funding to support a community meeting to discuss the draft plans • Funding a proposal from Sagkeeng First Nation to hire a consultant to do a review of Conditions 22 and 26 and work

Category of Concern	Description of any issues or concerns raised regarding the June 2020 Summary Approach	Community's comments on Adequacy of Revisions to the Draft Final Plan	Manitoba Hydro's response to community comments on Adequacy of Revisions to the Draft Final Plan
			with the community to develop feedback for Manitoba Hydro
	<p>"Underestimation of the Trust contribution required to ensure effective offsetting for impacts to Crown land use: Manitoba Hydro's proposed approach fails to account for the loss of use associated with the Right of Way and overhead transmission lines, resulting in an underestimation of residual project effects for which offsetting is required. Furthermore, Manitoba Hydro has revised land compensation calculations using a reduced land value of \$5,189/ha. This represents a 66% decrease compared to the easement rate of \$13,400/ha applied in the original Draft Crown Land Offset Plan and may substantially underestimate the funds required to purchase private land parcels. Finally, Manitoba Hydro's proposed contribution to the Trust does not include</p>	<p>"Manitoba Hydro has yet to provide a response. Based on the content of the draft final Crown Land Offset Measures Plan, recommended measures for revisions to the offsetting area (550 hectares minimum), land value contributions, and funding for community engagement have not been adopted. This concern has not been adequately addressed." ¹⁴</p>	<p>Manitoba Hydro considers the funds allocated to the Trust to be a reasonable estimate of the funds required to achieve the stated purposes, additional contributions will be made if necessary for purchasing 96.4 ha of land.</p>

Category of Concern	Description of any issues or concerns raised regarding the June 2020 Summary Approach	Community's comments on Adequacy of Revisions to the Draft Final Plan	Manitoba Hydro's response to community comments on Adequacy of Revisions to the Draft Final Plan
	sufficient funding for community engagement, monitoring, or adaptive management, which are crucial components of effective offsetting systems." ¹⁴		
	"Unclear and insufficiently resourced mechanisms for community input in the identification of selection criteria and potential land parcels: Manitoba Hydro's proposed approach places the onus on members of the MMTP Monitoring Committee to inform and engage community members on behalf of Manitoba Hydro, without the provision of adequate resources necessary to do so. Potential land parcels, for example, will be suggested and shared through a password protected webpage on the existing MMTP Monitoring Committee website. Sagkeeng, however, is not a member of this committee. Sagkeeng recommends a more	"Manitoba Hydro has yet to provide a response. Based on the content of the draft final Crown Land Offset Measures Plan, recommended measures for the development of selection criteria and identification of potential land parcels have not been adopted. This concern has not been adequately addressed." ¹⁴	<p>Manitoba Hydro met online with Sagkeeng First Nation on July 29, 2020. In this meeting we discussed mechanisms for seeking Sagkeeng First Nation feedback on land parcel selections. Manitoba Hydro confirmed that Sagkeeng First Nation does not have to work through the MMTP Monitoring Committee and that Manitoba Hydro can send information separately.</p> <p>Manitoba Hydro initiated the MMTP Monitoring Committee and hosted a Discussion Forum to support and enable collaborative discussion on items such as this. It is up to Sagkeeng First Nation's discretion and preference if or how they'd like to participate in</p>

Category of Concern	Description of any issues or concerns raised regarding the June 2020 Summary Approach	Community's comments on Adequacy of Revisions to the Draft Final Plan	Manitoba Hydro's response to community comments on Adequacy of Revisions to the Draft Final Plan
	<p>collaborative process that engages communities and land users directly in the initial identification of selection criteria and potential land parcels." ¹⁴</p>		<p>these processes. Manitoba Hydro will provide access to any information shared through these forums regardless of whether Sagkeeng First Nation chooses to participate.</p> <p>Sagkeeng First Nation can also access funding allocated for parcel review.</p>
	<p>"Lack of Indigenous representation in the decision-making process for selection of land parcels: While Manitoba Hydro has allocated up to \$15,000 total (\$5,000 per land parcel, for up to three parcels) per community to review and comment on suggested land parcels, this is not adequate to support meaningful community engagement in the selection of land parcels. Furthermore, it is unclear if or how community leadership will be involved in decision-making and final selection. Sagkeeng requests that</p>	<p>"Manitoba Hydro has yet to provide a response. Based on the content of the draft final Crown Land Offset Measures Plan, recommended measures for engaging Sagkeeng in the decision-making process have not been adopted. This concern has not been adequately addressed." ¹⁴</p>	<p>Manitoba Hydro based the amount available for communities to participate in this process on previous experience in working with Indigenous communities to participate in field visits and reviews of a similar nature. It is meant to represent reasonable costs for communities to review and comment on suggested land parcels.</p>

Category of Concern	Description of any issues or concerns raised regarding the June 2020 Summary Approach	Community's comments on Adequacy of Revisions to the Draft Final Plan	Manitoba Hydro's response to community comments on Adequacy of Revisions to the Draft Final Plan
	offset measures be implemented in a collaborative manner, including community representation in the decision-making process." ¹⁴		
	"Lack of a timeline for the purchase of Crown lands: Adequate time for consultation and collaborative decision-making are critical for ensuring the continuity of important cultural practices impacted by the loss of Crown lands. Sagkeeng requests the collaborative development of a schedule for offset implementation that includes the timely purchase of private lands, informed by adequate community engagement." ¹⁴	"Manitoba Hydro has yet to provide a response. Based on the content of the draft final Crown Land Offset Measures Plan, the timeline for this plan is 5 years. Timelines for community engagement in most aspects of this process are still unclear. Where timelines have been specified (e.g., communities will have seven days to comment on proposed land parcels), they are insufficient for meaningful engagement. This concern has not been adequately addressed." ¹⁴	In order to accommodate potentially short windows to purchase available parcels of land, community review of the land parcel(s) also needs to be done expeditiously. Short windows of opportunity would be determined by the real estate market in terms of how quickly a property may sell. As experience with this process is gained, the review period may be lengthened if the real estate market allows. It is hoped that having the criteria for selection already established will assist in minimizing the length of time required for comment by communities.
	"Lack of monitoring and adaptive management: Monitoring and adaptive management are crucial for ensuring that offset measures	"Manitoba Hydro has yet to provide a response. Based on the content of the draft final Crown Land Offset Measures Plan, some	Manitoba Hydro has updated the monitoring plan to include funding for Cultural representatives to participate in

Category of Concern	Description of any issues or concerns raised regarding the June 2020 Summary Approach	Community's comments on Adequacy of Revisions to the Draft Final Plan	Manitoba Hydro's response to community comments on Adequacy of Revisions to the Draft Final Plan
	<p>do in fact produce the desired ecological and cultural outcomes. Sagkeeng reiterates requests for the inclusion of monitoring and adaptive management in the Crown Land Offset Measures Plan for the MMTP." ¹⁴</p>	<p>monitoring and reporting activities have been added. Monitoring described in the revised plan does not include a role for Sagkeeng in on-the-land monitoring or adaptive management decisions. This concern has only been partially addressed." ¹⁴</p>	<p>both an initial assessment of each offset parcel purchased and review of parcel use to gauge the overall effectiveness of the offset lands in supporting traditional use from a cultural values perspective. We would encourage Sagkeeng First Nation members to participate.</p> <p>Please refer to section 3.6 Monitoring & reporting.</p>

C-5 Responses to Manitoba Metis Federation’s August 24, 2020 Preliminary Comments on Manitoba Hydro’s draft final Manitoba-Minnesota Transmission Project Crown Land Offset Measures Plan for Condition 22 of Certificate EC-059 (MNP, 2020)¹⁵

Concern #	"Draft Final Crown Land Offset Measures Plan Section" MMF Appendix A ¹⁵	"dfClomp Details" MMF Appendix A	Description of any issues or concerns raised by the MMF regarding the draft final CLOMP	How Manitoba Hydro has addressed or responded to issues or concerns raised regarding the plan
1.	<p>Preface</p> <p>Page v</p>	<p>“The revised Plan continues to propose offset rather than compensation measures as the most effective way of addressing the permanent loss of Crown land caused by the Project.”</p>	<p>“Condition 22 (b) states that the Plan must include a list of the offset or compensation measures that will be implemented to address the permanent loss of Crown lands.</p> <p>While Manitoba Hydro may consider the CLOMP the ‘most effective way of addressing the permanent loss of Crown land’, not including a list of measures is inappropriate in that it ignores the language of the Condition and does not follow an approach that includes a mitigation hierarchy. Compensation for impacts must be considered if the Plan is to fulfill the</p>	<p>This Plan proposes one additional type of measure to fulfil Condition 22, as a supplement to Manitoba Hydro's other measures aimed at mitigating impacts to Crown land. The proposal involves offsetting for the permanent loss of Crown lands available for traditional use by Indigenous people by adding to the amount of Provincial Crown land currently available for traditional use.</p> <p>Manitoba Hydro contemplated compensation to individual</p>

¹⁵ MNP. (2020, August 24). Comments on Manitoba Hydro’s draft Manitoba-Minnesota Transmission Project Crown Land Offset Measures Plan for Condition 22 of Certificate EC-059. Canada: Manitoba Metis Federation.

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			<p>requirements of Condition 22. Excluding compensation and other offset measures illustrates how Manitoba Hydro is simply going through the motions of consultation without leaving room for discussion with the MMF on which measures best address impacts to their section 35 Metis rights. In fact, Manitoba Hydro has unilaterally ruled out all discussion of other potential offset measures, despite the requirements in Condition 22 for consultation, developing a list of measures, and identifying the effectiveness of each measure for each Indigenous community.</p> <p>This was raised in the MMF's previous correspondence on Condition 22 which stated:</p> <p>"...Hydro's Plan is premised on a tunnel vision approach that offset lands are the only way to fulfill</p>	<p>communities initially and considered it less effective as a mechanism for the reasons outlined in section 5 of the Plan. Manitoba Hydro disagrees with the MMF that consultation has been unilateral as we have heard throughout Project engagement that lands available for practicing rights-based activities is limited in southern Manitoba and what remains is important (Metis Land Use and Occupancy Study PDF page 5). These understandings shared during Project review indicate the importance of replacing land.</p>

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			<p>Condition 22 and that Hydro has therefore pre- determined the Plan's outcome. Consultation, if it is to be meaningful, requires a two-way dialogue, with give-and-take on both sides and the serious consideration of changes to the Plan to address the concerns raised by Indigenous communities. A pre-determined outcome that land is the only option entirely negates the purpose of the consultation required by Condition 22."</p> <p>The CLOMP should be revised to include a list of offset or compensation measures. See also comments below regarding the use of a mitigation hierarchy."</p>	
2.	<p>Preface</p> <p>Page v</p>	<p>"The provisions of a draft written arrangement between Manitoba Hydro and the Province of</p>	<p>"Any written arrangement between Manitoba Hydro and the Government of Manitoba must provide certainty regarding the long-term benefits of the offset land to the Metis. In addition, it must provide certainty</p>	<p>The Plan includes a proposed Memorandum of Agreement with the Province of Manitoba that is intended to address these issues as much as possible.</p>

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		Manitoba are also aimed at providing more certainty regarding the long-term benefits of the offset lands to communities”	<p>that impacts are not compounded through this approach, including for example access and use by non-Indigenous harvesters if the offset lands are held by Manitoba as provincial Crown lands.</p> <p>See comments below regarding the proposed written arrangement between Manitoba Hydro and the Government of Manitoba and the need to address secondary effects where the lands are proposed to be held by Manitoba as provincial Crown lands.”</p>	
3.	2. Overview of Plan 2.1 Offset Measures Page 3	“Manitoba Hydro proposes to offset for the permanent loss of Crown lands available for traditional use by Indigenous people by adding to the amount of Provincial Crown land	“Does the dfCLOMP propose to increase the amount of provincial Crown land currently available for traditional use or offset for loss? If it is the latter, the language in this passage should be amended to remove ‘adding’ and replace with ‘offsetting’. If it is the former, the MMF and Manitoba Hydro	Manitoba Hydro’s intent is to purchase areas of private land that cumulatively are four times greater than the area of Crown land permanently lost due to the Project. We understand this to be a net gain of Crown land as four times the amount of land will be purchased.

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		currently available for traditional use."	should engage in discussions to identify what 'adding' means (e.g. whether it is a no net loss approach or net gain approach)."	
4.	2. Overview of Plan 2.1 Offset Measures Page 3	"The trust will be known as the "MMTP Crown Lands Offset Measures Trust" (the "Trust") and will receive a \$815,000.00 (plus additional funds for administrative costs) contribution from Manitoba Hydro once approval of the Final Plan is received from the Canada Energy Regulator (CER)."	"As outlined above and further below in comments #15, this amount of funding is insufficient and should be updated. In addition, the identification of a final, proscriptive amount of funds allocated to the Trust prior to the identification of the land for purchase is premature. This should be revised to be clear that the initial allocation is a minimum amount and to outline, based on further consultation with the MMF, clear circumstances/triggers for when Manitoba Hydro will add funds to the Trust."	Manitoba Hydro has committed to purchasing 96.4 hectares of land. Manitoba Hydro believes that its' estimate of the purchase costs is reasonable based on past experience. However, should it cost Manitoba Hydro more money to purchase that amount of land, it will add more funds to the trust.
5.	2. Overview of Plan 2.1 Offset Measures	"Parcels of eligible offset lands will be selected by Manitoba Hydro	"It is unclear based on the dfCLOMP how the parcels will address the Manitoba Metis Community's preferred means of harvest, including	Manitoba Hydro is interested in understanding preferred criteria for land selection from the MMF.

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	Page 3	<p>from private lands available for sale in southeastern Manitoba (see Area of Focus in Map 2). These selections will be made using specific criteria designed to assess the lands' suitability for the exercise of traditional rights and suitability for purchase that have been developed by Manitoba Hydro in consultation with Indigenous communities"</p>	<p>harvesting in areas of past success; and how Manitoba Hydro will ensure these parcels are located in areas conducive to Metis harvesting and ensuring that Metis harvesters travel and associated travel costs do not increase. Where travel costs do increase, or where preferred locations are lost, it is unclear how these impacts are being accommodated under the current dfCLOMP.</p> <p>Metis rights are distinct from First Nation rights. This is acknowledged by the plain language of Condition 22 that requires the plan to identify the effectiveness of each measure for "each" Indigenous community. Manitoba Hydro cannot fulfill this requirement without considering specific Metis section 35 harvesting and other practices distinctly.</p> <p>As the MMF has noted the lack of</p>	<p>Manitoba Hydro first asked for input on criteria in November 2019 and since that time, have welcomed input on criteria and other aspects of the CLOMP.</p> <p>Manitoba Hydro continues to be open to input on Metis specific criteria for land selection and notes the suggested criteria provided in 30 and 31 of this document, below.</p> <p>Manitoba Hydro encourages the MMF to put forward interested Citizens who may want to be Cultural representatives and review parcels prior to selecting for purchase. It is anticipated that these representatives will contemplate the concerns noted in this comment, such as ensuring parcels are located in areas conducive to Metis harvesting and ensuring that</p>

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			<p>specific consultation on the dfCLOMP in its letters dated February 14, 2020 and June 29, 2020, it can be assumed that there was none or only limited consultation with the MMF on the specific criteria designed to assess the lands suitability for the exercise of traditional rights (similarly in its June 29, 2020 letter, the MMF specified that 'an outline' of the Plan was all that was provided for review).</p> <p>This means that the above noted aspects integral to the Manitoba Metis Communities exercise of their section 35 Metis rights have not been considered within the 'specific criteria' described by Manitoba Hydro. This must be remedied, and the criteria used updated to reflect criteria for lands that are suitable for the exercise of Metis section 35 rights. In particular, Metis-specific criteria or indicators may need to be considered to ensure that any offset</p>	<p>Metis harvesters travel and associated travel costs do not increase.</p>

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			<p>lands meet the distinct needs of the Manitoba Metis Community, including changes in legal restriction, changes in physical attributes, changes in Metis perception of land, increased access for non-Metis, change in type of harvesting activity undertaken, change or perception of change in quality of harvesting experience, change in harvesting success, change in availability of culturally critical species and change in perception of culturally critical species as detailed in the Metis Land Use and Occupancy Study (2016).</p> <p>See comments below regarding engagement with the MMF about the criteria."</p>	
6.	<p>2. Overview of Plan 2.1 Offset Measures Page 3</p>	<p>"Indigenous communities may also identify parcels of interest for Manitoba Hydro's consideration. The</p>	<p>"Will funds from the Trust also be made available to the MMF for the identification of parcels of interest on their own?"</p> <p>Manitoba Hydro's position has been</p>	<p>Manitoba Hydro is not proposing to proactively fund communities to conduct their own land search; rather, we are identifying criteria to determine which parcels of</p>

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		<p>description of all selected parcels will be uploaded to a website for consideration by Indigenous communities so that their feedback can be provided. Funds from the Trust will be made available to communities for this review process."</p>	<p>that MMF staff are not eligible for reimbursement of their time because they are paid a salary by the MMF, however the MMF cannot be expected to self-fund these processes that are a requirement of the Certificate. Identifying offset lands should not, through the imposition of Manitoba Hydro's policies, put the MMF at a further loss/disadvantage compared to other Indigenous communities in terms of receiving capacity to support identifying/reviewing and selecting lands.</p> <p>This also requires further detail on what Manitoba Hydro means by 'suitability for purchase' as MMF was not consulted on the criteria that will be used to identify this. Without full consultation on the criteria, the selection process may result in identification of lands deemed by Manitoba Hydro as unsuitable,</p>	<p>land make sense for purchase for their review. If communities identify land parcels they are interested in, they can be forwarded and will be reviewed based on the same criteria and with all participating communities.</p> <p>One of the key criteria used to determine "suitability" is 'suitability for exercising Aboriginal and Treaty rights.' Manitoba Hydro recognizes that this criterion is broad. Therefore, to aid in assessing this criterion, Table 2 of the plan has been developed outlining characteristics that will be considered when considering land to purchase for offsetting effects related to the Project.</p> <p>MMF representatives have been funded to provide feedback on</p>

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			<p>without any clear reason or rationale as to why those lands are "unsuitable" when they were otherwise identified by an Indigenous community.</p> <p>Please provide additional details regarding funding for the MMF to identify lands and whether this will come from the Trust. Please also provide additional details explaining Hydro's view of "suitability".</p> <p>See comment #35 regarding reimbursement for MMF's review costs and Hydro's reimbursement policy."</p>	<p>this plan. MMF representatives are also eligible for reimbursement on agreed-upon activities related to MMTP including field tours and meetings. Manitoba Hydro communicated this understanding to the MMF during MMTP Monitoring Committee meetings.</p> <p>Manitoba Hydro encourages the MMF to put forward interested Citizens who may want to be Cultural representatives and review parcels prior to selecting for purchase. It is anticipated that these representatives will contemplate the concerns important for practicing activities important to Metis Citizens.</p>
7.	2. Overview of Plan 2.1 Offset	"Through a written arrangement with the Province of Manitoba, Manitoba	"The MMF has previously expressed a preference for the parcels to be transferred to the Indigenous communities themselves, including	The Plan's overall objective is to place impacted Indigenous communities in as comparable a position as possible to the

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	Measures Page 3	Hydro will transfer the parcels that have been purchased to the Province of Manitoba."	<p>the MMF, or to the federal Crown for the ongoing benefit of the Indigenous communities. This would avoid many of the outstanding concerns and risks inherent in the current plan to transfer lands to the Province of Manitoba.</p> <p>Please provide a response regarding why transferring offset lands to the MMF, and other Indigenous communities, and/or to the federal Crown was not considered, or was discounted by Manitoba Hydro. Please also confirm whether Manitoba Hydro asked if Canada would be willing to hold the Condition 22 offset lands, and if so what the response of the federal Crown was."</p>	<p>position they were in prior to MMTP in terms of their ability to exercise traditional rights in the Project area. Accordingly, Manitoba Hydro's proposal is to create new Provincial Crown land for the exercise of traditional rights by Indigenous communities achieves this goal.</p> <p>The Province is the primary agency in Manitoba for the creation of provincial Crown lands.</p> <p>The federal government provided a response in their letter dated July 30, 2020 and indicated that their position had not changed since their January 10, 2020 letter.</p>
8.	2. Overview of Plan 2.1 Offset Measures	"It is presently anticipated that the Province will accept the transfer of these	"If Manitoba Hydro intends to recommend that Province withdraw the lands from disposition via Section 5(1)(j) which indicates that the	The responsibility for drafting the OIC lies with Manitoba and the MMF would need to pursue this issue with the Province.

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	Page 3	parcels at a nominal fee by Order in Council and, further, will be required to withdraw the lands from disposition at the same time, as set out in s. 5 of The Crown Lands Act, so that the lands may be used by Indigenous communities for the exercise of traditional rights."	<p>Lieutenant Governor in Council may "...withdraw Crown lands from disposition under this Act for reasons to be set forth in the order effecting the withdrawal"¹⁰; the MMF requires involvement and meaningful consultation on the Order in Council to ensure the reasons set forth in the Order in Council align with the purposes of the Condition 22 and meet the requirements of offsetting impacts on the section 35 rights of the Manitoba Metis Community.</p> <p>The CLOMP should be revised to include a process for consultation with the MMF on the development of the Order in Council proposed for withdrawing the offset lands from further disposition."</p>	
9.	2. Overview of Plan	"Manitoba Hydro will continue to purchase parcels of	"Manitoba Hydro's calculation of the lands lost for traditional use is insufficient. As outlined above, the	It is Manitoba Hydro's position that the area of Crown land permanently lost is equivalent to

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	<p>2.1 Offset Measures</p> <p>Page 4</p>	<p>land gradually over time until at least 96.4 ha of offset lands have been established as Provincial Crown lands."</p>	<p>MMF Study identified that 290.13 hectares of Crown land would be permanently lost to the exercise of Metis rights because of the project. This is 3x the larger than 96.4 ha identified by Manitoba Hydro.</p> <p>In addition, the NEB already rejected Manitoba Hydro's argument that only small amounts of Crown land would be permanently lost because of the project (See NEB Reasons for Decision on MMTP (2018) (A95736-1). In light of this, it is unclear why Manitoba Hydro continues to adopt a calculation for the loss of land that is limited to only the transmission tower footprints and ignores the evidence in the MMF Study.</p> <p>The quantum of Crown land permanently lost should be revised to be at least the 290.13 ha identified in the MMF Study as lands permanently lost to the Metis as a</p>	<p>the surface area under each of the 139 towers on Crown land traversed by the Project. This area totals 24.1 ha. The surface area under towers is inaccessible and therefore rights-based activities cannot be conducted.</p> <p>Manitoba Hydro has committed to purchasing 96.4 hectares of land.</p> <p>Manitoba Hydro has committed to purchasing four times the amount of land considered permanently lost (24.1 ha x 4 = 96.4 ha) in order to take into account uncertainties associated with effectiveness of offset land.</p> <p>Manitoba Hydro is considering the criteria put forward in Table 1 and the land characteristics described in Table 2 of the CLOMP.</p>

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			<p>result of the project.</p> <p>It is also unclear what Manitoba Hydro means when it says "at least 96.4 ha of offset land." Does Manitoba Hydro contemplate providing more than 96.4 ha? If so, what criteria will Manitoba Hydro consider expanding the offset lands beyond the 'at least 96.4 ha' specified?"</p>	
10.	<p>2. Overview of Plan 2.1 Offset Measures Page 4</p>	<p>"These offset lands will then be monitored."</p>	<p>"Who will monitor the offset lands? Manitoba Hydro, the Province of Manitoba, the Canada Energy Regulator? Is there a schedule for monitoring implementation? Will this monitoring be conducted indefinitely, or will there be an estimated completion date (following the 5-year timeline)? Will the monitoring be conducted in partnership with the MMF? Will the parameters of the monitoring program be defined in partnership with the MMF?"</p>	<p>Manitoba Hydro has updated the monitoring plan to include funding for Cultural representatives to participate in an initial assessment of each offset parcel in supporting traditional use from a cultural values perspective. We would encourage Metis Citizens to participate.</p> <p>Please refer to 3.6 Monitoring & Reporting.</p>

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			<p>This requires extensive consultation to further define and include agreed-upon processes for co-management and ongoing monitoring that includes the MMF to ensure the long-term viability of the CLOMP.</p> <p>See comments below regarding co-monitoring and the development of an Effectiveness Review."</p>	<p>Long-term land management will rest with the Crown, similar to other Crown land throughout the Province.</p>
11.	<p>2. Overview of Plan 2.2 Other Components of Plan</p> <p>Page 4 – Page 5</p>	"All"	"Other components of the draft final Plan that are identified as required by Condition 22 still are missing. See Comment #1 (among others) for additional context."	Manitoba Hydro considers this Plan to be a compliant with all of the requirements of Condition 22, as outlined in section 2.
12.	3. Description of Offset Measures	"Manitoba Hydro took steps to reach out to communities to better understand criteria used to select TLE and other lands of interest in order to avoid	"As the MMF has articulated concerns with the consultation process up to and including its June 29, 2020 letter, it is clear that Manitoba Hydro has not undertaken detailed consultation with the MMF about the criteria proposed for selection. Focusing only on First	Please refer to Manitoba Hydro's letter to the MMF dated July 24, which outlines consultation with the MMF up to that point. Appendix B provides a communication summary including correspondence with the MMF.

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		<p>having land selections under this Plan conflict with those processes."</p>	<p>Nation criteria and considering TLE processes to ensure that land selection under the CLOMP doesn't conflict with those processes does not account for the need to have the Plan:</p> <ul style="list-style-type: none">) include Metis-specific criteria/considerations, and) avoid conflicts with MMF land-related processes. <p>These Metis-specific land interests and processes include, among other things, the outstanding claim recognized by the Supreme Court of Canada related to the 1.4 million acres of land promised to the Metis in section 31 of the <i>Manitoba Act, 1870</i>, and which the MMF is in active negotiations with Canada about.</p> <p>This section must be revised and additional engagement with the</p>	<p>Manitoba Hydro is interested in understanding from the MMF what Metis specific preferred criteria for land selection are. Manitoba Hydro first asked for input on criteria in November 2019 and since that time, have welcomed input on criteria and other aspects of the CLOMP.</p> <p>Manitoba Hydro continues to be open to input on Metis specific criteria for land selection and opportunity to provide input on criteria provided in Table 1 remains after CER approval as per the process outlined.</p> <p>To reduce conflicts with other Indigenous communities' processes, Manitoba Hydro's current process involves an opportunity for Indigenous communities to submit their own</p>

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			MMF is needed to identify and include Metis-specific and MMF-suggested criteria for land selection and ensure that the CLOMP does not conflict with other MMF processes."	parcels of interest for consideration in the land parcel selection process and includes a commenting period for all parcels considered to allow for community's to express concerns.
13.	3.1 Manitoba Hydro will create a Trust for land Offsetting Amount and Purposes of Trust Page 6	"Manitoba Hydro notes that, while these amounts are considered to be a reasonable estimate of the funds required to achieve the stated purposes, additional contributions will be made if necessary."	"It is unclear when and under what circumstances (beyond environmental site assessments, "municipal expenses" or "administrative costs") additional contributions to the Trust will be made. What criteria will be used by to assess whether additional contributions are required and what mechanism will be in place to ensure that this considers the input from Indigenous communities, including the MMF? Currently this reads like an empty promise with no clear criteria of when, or if, it will ever	The Plan will not be considered implemented until 96.4 ha of land has been acquired. If purchase costs exceed the amount that has been made available, Manitoba Hydro will supplement the fund accordingly. See Section 3.6 Monitoring & reporting for details regarding Trust fund allocation.

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			<p>be fulfilled.</p> <p>The CLOMP should have clear triggers for when Manitoba Hydro will be required to add additional funding to the Trust. For example, among other circumstances, Manitoba Hydro should be required to add funding to the Trust if consultation or engagement costs exceed what is currently estimated and the full quantum of lands has not been provided or if land acquisition costs are higher than currently estimated.</p> <p>Manitoba Hydro should engage in further consultation with the MMF to define a clear list of triggers to include in the CLOMP for when Manitoba Hydro is required to add funding to the Trust."</p>	
14.	3.1 Manitoba Hydro will create a Trust for land	"a trust will be created with an initial \$815,000 contribution (the	The Trust is a key component in Manitoba Hydro's CLOMP and ultimately how the Trust is structured and governed will affect the overall	Manitoba Hydro has experience in setting up a trust for other types of programming. The language of the trust will not

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	<p>Offsetting Amount and Purposes of Trust</p> <p>Page 6 and 11</p>	<p>"Contribution") from Manitoba Hydro, to be known as the "MMTP Crown Lands Offset Measures Trust."</p> <p>"An external trustee will be appointed to hold the Contribution and to disburse the Trust funds in accordance with the terms of the Trust."</p> <p>"The terms of the Trust will also provide that any disbursement of a portion of the Contribution will require the written approval of a designated</p>	<p>effectiveness and implementation of the Plan. Currently the details about the trust are unclear as only limited, summary information has been provided in the dfCLOMP. For example, among other things, how the Trust defines elements such as "available land" and "suitable to support the exercise of traditional Indigenous activities" are unclear so it is impossible to know if this reflects Metis section 35 rights practices or includes the distinct Metis understanding of those terms.</p> <p>In addition, approval of the Indigenous communities, including the MMF, should also be required before a land purchase is made or funds are withdrawn from the Trust.</p> <p>Manitoba Hydro should consult with the MMF on the terms of the Trust and the appointment of the trustee to administer the Trust. In addition,</p>	<p>dictate elements such as "available land" and "suitable to support the exercise of traditional Indigenous activities". Those elements are determined in this Plan.</p>

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		Manitoba Hydro official"	the terms of the Trust should be included in the draft CLOMP shared with the CER as part of its review and approval of the CLOMP.	
15.	3.1 Manitoba Hydro will create a Trust for land Offsetting Amount and Purposes of Trust Page 6	"a) \$500,000 will be allocated to purchase 96.4 ha of private land in the Area of Interest that is available and suitable to support the exercise of traditional Indigenous activities; . . . b) \$315,000 will be allocated to support consultation and review of land parcels by Indigenous communities (based on participation by 21 communities)."	"These funding allocations are insufficient. The allocation of \$500,000 is based on an offset land amount of 96.4 ha that, as further outlined above, does not take into account the permanent loss of Crown land to the Manitoba Metis Community resulting from MMTP activities. The MMF Study indicated that there would be a reduction in Unoccupied Crown land of 290.13 hectares. This, at the reduced estimated market value, would require \$1,505,485 (without a multiplier) to be allocated for land purchase; and \$3,887,742 at the highest arable agricultural land easement rate	It is Manitoba Hydro's position that the area of Crown land permanently lost is equivalent to the surface area under each of the 139 towers on Crown land traversed by the Project. This area totals 24.1 ha. The area under towers will be inaccessible to resource users; however, the right-of-way outside of tower footprints remains accessible for rights-based activities. Manitoba Hydro is committing to supporting engagement on parcel review as described in section 3.3 of this plan and following the Manitoba Hydro Reimbursement Policy.

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			<p>(without a multiplier). With a 4x multiplier, this would require \$6,021,940 (reduced estimated market value) and \$15,550,968 (at the easement rate).</p> <p>Assuming that the \$315,000 is to be evenly allocated between the 21 communities and based on 3 rounds of reviews (as specified on Page 11), this is inadequate funding to ensure that the MMF can meaningfully participate in the CLOMP. As outlined above, this results in \$15,000 per community over 5 years. Is Manitoba Hydro assuming that this funding will cover all costs for the MMF associated with implementing the CLOMP? Including the identification of land parcels, the review of each parcel proposed by Manitoba Hydro or other Indigenous communities, tours or site visits, engaging with Metis citizens and harvesters about the suitability of parcels for exercising</p>	

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			<p>their Metis rights, and reporting back to Hydro and the Manitoba Metis Community regarding the parcels? How is this going to be structured/grouped to account for Manitoba Hydro's 3 proposed rounds of review?</p> <p>Manitoba Hydro should increase the funding allocated to the Trust based on a Crown land area of 290.13 ha and highest arable agricultural land easement rate. At a 4x multiplier this would require \$15,550,968 allocated to the purchase of lands. The multiplier should also be further discussed with the MMF.</p> <p>Manitoba Hydro should also engage with the MMF to identify the initial funding allocation for consultation about the parcels and implementation of the CLOMP. This amount should be offered on a per annum basis to the MMF to increase</p>	

Concern #	"Draft Final Crown Land Offset Measures Plan Section" MMF Appendix A ¹⁵	"dfClomp Details" MMF Appendix A	Description of any issues or concerns raised by the MMF regarding the draft final CLOMP	How Manitoba Hydro has addressed or responded to issues or concerns raised regarding the plan
			<p>certainty and avoid administrative burdens. In addition, as outlined above, this consultation should follow the MMF’s Resolution No. 8 process for consulting with the Manitoba Metis Community.”</p>	
16.	<p>3.1 Manitoba Hydro will create a Trust for land Offsetting Increase in Contribution Since Initial Plan</p> <p>Concerns Page 7</p>	<p>“During engagement on the November 2019 draft Plan, Indigenous communities shared that they did not agree with the proposed methodology for determining the area of land considered permanently lost for practicing traditional pursuits. Additionally, Sagkeeng First Nation and other communities shared</p>	<p>“The Concerns summary as listed is not sufficient to detail the “...issues or concerns raised regarding the plan by Indigenous communities...” and does not give a full picture of the concerns raised. Among other things, it completely neglects to mention the concerns raised by the MMF. This must be presented in a disaggregated manner so that each issue or concern for each nation can be pinpointed and explored to show the progression from issue/concern raised, to resolution – should resolution have occurred.</p> <p>This summary should be updated to refer to and include the concerns identified by the MMF in its letters</p>	<p>This plan has been updated to disaggregate comments and includes the letters sent by the MMF on February 14, 2020 and June 29, 2020.</p>

Concern #	"Draft Final Crown Land Offset Measures Plan Section" MMF Appendix A ¹⁵	"dfClomp Details" MMF Appendix A	Description of any issues or concerns raised by the MMF regarding the draft final CLOMP	How Manitoba Hydro has addressed or responded to issues or concerns raised regarding the plan
		<p>concerns that the \$323,000 figure may not properly account for the uncertainties and unknowns inherent in an offset program. Uncertainties of this offset program included whether acquired land would have the same cultural value as the land that has been lost, the accessibility and comparability of new land to be acquired, and other tangible and intangible factors."</p>	<p>on February 14, 2020 and June 29, 2020 as well as concerns raised in this chart."</p>	
17.	3.1 Manitoba Hydro will create a Trust for land	"This draft final Plan involves Manitoba Hydro purchasing lands with input	"While the approach of providing the funds to third parties was concerning, reliance on Manitoba Hydro to consider input from the MMF in the	In its August 11 Letter Decision the Commission found that Manitoba Hydro is in compliance with Conditions 3 and 15 of the

Concern #	"Draft Final Crown Land Offset Measures Plan Section" MMF Appendix A ¹⁵	"dfClomp Details" MMF Appendix A	Description of any issues or concerns raised by the MMF regarding the draft final CLOMP	How Manitoba Hydro has addressed or responded to issues or concerns raised regarding the plan
	<p>Offsetting Increase in Contribution Since Initial Plan</p> <p>Justification for Revised Contribution</p> <p>Page 8</p>	<p>from Indigenous communities as opposed to providing funds to a third party to undertake the land purchases. This shift in approach removes or lessens uncertainty in some areas."</p>	<p>process of land purchases without a clear role for the MMF in making these decisions is of concern as well. This is particularly concerning as the MMF has repeatedly raised concerns with the CLOMP that have gone unaddressed by Manitoba Hydro (as outlined above).</p> <p>In addition, the MMF has also asked for Manitoba Hydro to enter into alternative dispute resolution processes related to its concerns with Manitoba Hydro failing to implement Conditions 3 and 15 of the Certificate and Hydro has repeatedly refused. In light of this, there is no confidence that Manitoba Hydro will receive and consider input from the MMF in a meaningful way or that it will be willing to address disputes regarding its decisions in land-selection.</p> <p>See comments below regarding the inclusion of a dispute resolution process and the need for a decision-</p>	<p>Certificate. Accordingly, Manitoba Hydro does not believe an alternative dispute resolution process related to Condition 3 and 15 is necessary at this time.</p> <p>The process put forward in this Plan includes an opportunity for the MMF to put forward land parcels to undergo review in the land selection process. The Plan also proposes to fund two Metis Cultural representatives to share their thoughts on whether land parcels would be effective at supporting traditional use from a Metis-perspective, contributing to the decision to purchase individual parcels.</p>

Concern #	"Draft Final Crown Land Offset Measures Plan Section" MMF Appendix A ¹⁵	"dfClomp Details" MMF Appendix A	Description of any issues or concerns raised by the MMF regarding the draft final CLOMP	How Manitoba Hydro has addressed or responded to issues or concerns raised regarding the plan
			making role for the MMF in the CLOMP."	
18.	<p>3.1 Manitoba Hydro will create a Trust for land Offsetting</p> <p>Increase in Contribution Since Initial Plan</p> <p>Justification for Revised Contribution Page 8</p>	<p>"For example, as part of the revised approach, feedback over the course of the Project, as well as specifically on the draft plan, was used to develop draft criteria to guide the selection of land for purchase under the offsetting program. This has removed some of the uncertainty related to what types of land will be targeted and how land purchases under the program will be prioritized."</p>	<p>"As the MMF has articulated concerns with the consultation process up to and including its June 29, 2020 letter, it is clear that Manitoba Hydro has not undertaken detailed consultation with the MMF about the criteria proposed for selection. This section specifies that the draft criteria to guide the selection of land for purchase has been completed and that "uncertainty related to what types of land will be targeted" have been resolved. This is problematic as the MMF has not been consulted on these criteria or to what extent they may resolve uncertainty about Metis-specific land interests.</p> <p>The criteria must be considered draft until the MMF can review, provide input, and discuss the MMF-specific/proposed criteria with Manitoba Hydro (see below</p>	<p>Manitoba Hydro is interested in understanding the MMF's preferred criteria for land selection.</p> <p>Manitoba Hydro first asked for input on criteria in November 2019 and since that time, have welcomed input on criteria and other aspects of the CLOMP.</p> <p>Manitoba Hydro continues to be open to input on Metis specific criteria for land selection and notes the suggested criteria provided in 30 and 31 of this document, below.</p> <p>Please see the Manitoba Hydro response to 7, above for a discussion on the intent of this Plan is to place impacted Indigenous communities in as</p>

Concern #	"Draft Final Crown Land Offset Measures Plan Section" MMF Appendix A ¹⁵	"dfClomp Details" MMF Appendix A	Description of any issues or concerns raised by the MMF regarding the draft final CLOMP	How Manitoba Hydro has addressed or responded to issues or concerns raised regarding the plan
			<p>comments on the proposed criteria for additional details).</p> <p>The Area of Focus was selected without consultation with the MMF. As this will be the area to direct parcel selection, the MMF should have been and should be consulted on this Area prior to finalization. In addition, the Area of Focus should not be interpreted in a proscriptive manner by Manitoba Hydro. For example, because the MMF was not consulted on the Area of Focus lands outside of this Area may need to be considered where proposed by the MMF to allow for traditional Metis practices/interests or exercise of Metis rights that are not sufficiently accommodated by available lands proposed by Manitoba Hydro within the Area."</p>	<p>comparable a position as possible to the position they were in prior to MMTP in terms of their ability to exercise traditional rights in the Project area.</p>
19.	3.1 Manitoba Hydro will create a Trust for land	"Manitoba Hydro has also identified a specific area of Manitoba to direct	"Additionally, Manitoba Hydro stated that it used the highest arable agricultural land easement rate of \$13,400 to account for various	Manitoba Hydro has identified a specific area of Manitoba to direct parcel selections, the Area of Focus shown in Map 2,

Concern #	"Draft Final Crown Land Offset Measures Plan Section" MMF Appendix A ¹⁵	"dfClomp Details" MMF Appendix A	Description of any issues or concerns raised by the MMF regarding the draft final CLOMP	How Manitoba Hydro has addressed or responded to issues or concerns raised regarding the plan
	<p>Offsetting</p> <p>Increase in Contribution Since Initial Plan</p> <p>Justification for Revised Contribution</p> <p>Page 9</p>	<p>parcel selections, the Area of Focus shown in Map 2, providing greater certainty on actual land values needed for offset lands. Given this, the revised approach now uses current local land value (\$5,189/ha) in the formula to determine funds to be set aside for land purchase. This more accurately reflects the price of the lands most likely to be sought for purchase in the Area of Focus."</p>	<p>uncertainties the process (e.g. how land would be prioritized, and what types of land would be selected). These uncertainties still exist. As further outlined below, the dfCLOMP does not provide any indication of how the criteria may be prioritized and provides no role for the MMF in the decision-making process selecting lands. It is unclear therefore, why Manitoba Hydro has proposed reducing the value to \$5,189/ha.</p> <p>This is also incongruent with Manitoba Hydro's landowner compensation policy that calculates compensation for landowners as current value of the lands, escalated to 150% of its fair market value. By only providing funding based on local land value (e.g. \$5,189/ha), Manitoba Hydro's dfCLOMP allocates less funding for Indigenous offset lands than provided to landowners in compensation for this same project.</p>	<p>providing greater certainty on actual land values needed for offset lands. Given this, the revised approach now uses current local land value (\$5,189/ha) in the formula to determine funds to be set aside for land purchase. This more accurately reflects the price of the lands most likely to be sought for purchase in the Area of Focus.</p> <p>Manitoba Hydro disagrees that the area of focus was selected without consultation with the MMF. The area of focus was included in the July 29, 2020 draft final CLOMP. The MMF were funded to provide feedback on this draft final CLOMP. Prior to that, consultation is described in the July 24, 2020 letter, which outlines consultation with the MMF up to that point. Appendix B provides a communication</p>

Concern #	"Draft Final Crown Land Offset Measures Plan Section" MMF Appendix A ¹⁵	"dfClomp Details" MMF Appendix A	Description of any issues or concerns raised by the MMF regarding the draft final CLOMP	How Manitoba Hydro has addressed or responded to issues or concerns raised regarding the plan
			<p>See comment #15 above regarding the increase of funding and funding formula for offset lands. Manitoba Hydro should further engage with the MMF regarding the Area of Focus and this area should not be considered/interpreted by Manitoba Hydro in a proscriptive manner in the final CLOMP."</p>	<p>summary including correspondence with the MMF.</p> <p>Manitoba Hydro also notes the use described in the MMF's Land Use and Occupancy Study (MMF 2016) that overlaps with the Area of Focus.</p>
20.	<p>3.1 Manitoba Hydro will create a Trust for land Offsetting</p> <p>Increase in Contribution Since Initial Plan</p> <p>Justification for Revised Contribution</p> <p>Page 9</p>	<p>"For example, some of the permanently lost Crown lands are located within a grassland. Lands used to offset these parcels may be forested. Different traditional activities may take place on those forested lands than those that would have occurred on the grasslands. Some areas that are</p>	<p>"A comprehensive and meaningful consultation process on parcel selection can alleviate the suspected tension when a parcel may not be as supportive of traditional activities as might be desired. These comments directly speak to the requirement to identify the expected effectiveness of each of the proposed measures on each Indigenous community and need for a list of available offset or compensation measures.</p> <p>This is also why Condition 22 referred to a list of offset or compensation measures; so that if "a circumstance</p>	<p>Manitoba Hydro has included a multiplier of four to address concerns related to uncertainty of the function of the parcels.</p> <p>Over half of the permanently lost Crown lands are located along the Red River Floodway. This area is regularly mowed and maintained to enable operation of the Floodway. It is likely that some of the offset lands that will be purchased will better support traditional activities than those currently supported in this heavily managed area. It is</p>

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		<p>purchased to offset permanently lost Crown lands may be less desirable than those areas lost. Although an engagement process has been set up to address this concern, there may be a circumstance where a portion of the parcel purchased is not as supportive of traditional activities as might be desired."</p>	<p>where a portion of the parcel purchased is not as supportive of traditional activities as might be desired" results, then another offset or compensation measure could be available to offset this deficit. Currently, Manitoba Hydro's approach allows for some impacts to persist with no relief or accommodation, which is an unacceptable outcome.</p> <p>See comments above and below regarding the need for the CLOMP to include a list of offset or compensation measures and incorporate a mitigation hierarchy."</p>	<p>Manitoba Hydro's understanding that, using the criteria currently drafted, land parcels purchased will be of higher cultural function than that provided by the Red River Floodway.</p>
21.	<p>3.1 Manitoba Hydro will create a Trust for land Offsetting Increase in Contribution</p>	<p>"There is uncertainty related to whether new parcels will support traditional activities at the same level as the parcels being offset.</p>	<p>"This impact was expressed within the Key Findings for Lands Available for Metis Use in the MMF Study, which noted that the remaining unoccupied Crown land within the LAA and RAA following approval would not be contiguous, lacked</p>	<p>Some of the criteria put forward match well with those suggested here as preferred Metis-specific criteria, including "Large tracts of private land near existing Crown land is preferable to smaller parcels far from Crown land".</p>

Concern #	"Draft Final Crown Land Offset Measures Plan Section" MMF Appendix A ¹⁵	"dfClomp Details" MMF Appendix A	Description of any issues or concerns raised by the MMF regarding the draft final CLOMP	How Manitoba Hydro has addressed or responded to issues or concerns raised regarding the plan
	<p>Since Initial Plan</p> <p>Justification for Revised Contribution</p> <p>Page 9</p>	<p>New parcels of land may not be located adjacent to existing Crown land, creating a patchwork of lands rather than a contiguous area."</p>	<p>connectivity and is broadly spaced.</p> <p>The dfCLOMP should be revised to require that Manitoba Hydro should make best efforts to secure contiguous land parcels."</p>	<p>This criterion is intended to focus land parcel selection to parcels that are large in area, contiguous with existing Crown land and, as a result, maintain connectivity with existing available natural spaces.</p> <p>Manitoba Hydro is considering the criteria put forward by the MMF.</p>
22.	<p>3.1 Manitoba Hydro will create a Trust for land Offsetting</p> <p>Increase in Contribution Since Initial Plan</p> <p>Calculation of Revised Land Allocation</p> <p>Page 10</p>	<p>"Manitoba Hydro is planning to adopt Sagkeeng's suggestion and proposes a multiplier of four (4) for the calculation of permanently lost land in order to account for the above described unknown factors. The surface area under each of the 139 towers on</p>	<p>"Condition 22 specifically requires Crown Land Offset Measures for:</p> <p>Project Activities at Dorsey Converter Station;</p> <p>The Transmission Tower Locations; and</p> <p>Any other locations.</p> <p>Manitoba Hydro's continued approach that <i>only</i> the surface area under each of the 139 towers is inappropriate and does not fulfill the requirements of the Condition. While the addition of a multiplier is</p>	<p>Project activities at the three stations included in this project did not occur on Crown land. There are no other locations of the Project, other than the 139 towers, that occur on Crown land. It is Manitoba Hydro's position that the permanent loss of Crown land is limited to the area under towers.</p> <p>The multiplier of four is applied to address concerns related to uncertainty of the effectiveness of the measure.</p>

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		<p>Crown land traversed by the Project totals 24.1 ha. Using a multiplier of four to address the areas of uncertainty described above, the area of permanent loss would be considered 96.4 ha. This area of land multiplied by current local land value in the relevant Area of Focus (96.4 x \$5,189/ha) results in a total of \$500,219 as the estimated cost to purchase an equivalent amount of land."</p>	<p>appropriate (the size of the multiplier should be discussed with the MMF) this does not eliminate the need for an accurate baseline calculation to which that multiplier is then applied.</p> <p>As a starting point, Manitoba Hydro should review the lands identified within the Metis Land Use and Occupancy Study, Assessment of Potential Effects Prior to Mitigation, Manitoba Minnesota Transmission Project (2016) which was provided as evidence to the National Energy Board. This Study identified 290.13 hectares of land converted from Unoccupied Crown land to Occupied Crown land, which will become land permanently lost to the Manitoba Métis Community for pursuing Aboriginal rights and traditional practices. This loss is due to a conveyance of priority rights to Manitoba Hydro whereby MMF</p>	

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			<p>community members lose the guarantee of consistently available Unoccupied Crown land. MMF harvesters can be prohibited from accessing the area of the Project Development Area through construction of the Project and, at select times, at Manitoba Hydro's discretion, for operations and maintenance activities. Therefore, the area of permanent loss that requires offsetting must be revised to be at least 290.13 hectares.</p> <p>Manitoba Hydro must expand the areas where Crown land will be permanently lost to be at least the 290.13 hectares identified as permanently lost to the Metis in the MMF Study.</p> <p>Further, the size of the multiplier and value calculation for these areas should also be subject to consultation with the MMF."</p>	

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23.	<p>3.1 Manitoba Hydro will create a Trust for land Offsetting Increase in Contribution Since Initial Plan Consultation Allocation Page 11</p>	<p>"Manitoba Hydro understands there will also be costs associated with the review, and the transfer of land parcels. As noted earlier, \$315,000 (21 communities x \$5,000/round x 3 rounds) will be added to the Trust for continued consultation on the land parcel selection and review process. It is not expected that all land parcels will be purchased at once; therefore, up to three rounds of review associated with the selection and purchase of land</p>	<p>"See Comment #15 above regarding the funding allocated for the review of parcels and process of review."</p>	<p>See response to Comment # 15.</p>

Concern #	"Draft Final Crown Land Offset Measures Plan Section" MMF Appendix A ¹⁵	"dfClomp Details" MMF Appendix A	Description of any issues or concerns raised by the MMF regarding the draft final CLOMP	How Manitoba Hydro has addressed or responded to issues or concerns raised regarding the plan
		parcels is assumed."		
24.	3.2 Selection of eligible offset land Selection Criteria Page 12	"The criteria for guiding offset land parcel selection is set out below and was derived from feedback received through consultation on this Condition and from understandings shared throughout the Project record by Indigenous participants."	<p>"The MMF was not consulted on the criteria guiding offset land parcel selection, as evidenced in its June 29, 2020 letter which indicated that MMF had not been provided a revised copy of the plan and that in light of the generic nature of the Summary Approach was not able to provide exhaustive comments on the actual plan. It is therefore unclear to what extent the criteria developed do in fact reflect Metis understandings rather than follow a pan-Indigenous or First Nations focused approach.</p> <p>Please identify where Manitoba Hydro drew on information from the MMF in the development of the criteria so that the MMF can provide further input and comment on whether this information reflects an accurate understanding of Metis rights and concerns."</p>	Manitoba Hydro disagrees that the MMF were not consulted on the criteria guiding offset land parcel selection. The area of focus was included in the Summary Approach shared June 5, 2020, the June 17, 2020 Discussion Forum (which the MMF participated) and the July 29, 2020 draft final CLOMP. The MMF were funded to provide feedback on this draft final CLOMP. Prior to that, consultation is described in the July 24, 2020 letter, which outlines consultation with the MMF up to that point. Appendix B provides a communication summary including correspondence with the MMF.

Concern #	"Draft Final Crown Land Offset Measures Plan Section" MMF Appendix A ¹⁵	"dfClomp Details" MMF Appendix A	Description of any issues or concerns raised by the MMF regarding the draft final CLOMP	How Manitoba Hydro has addressed or responded to issues or concerns raised regarding the plan
				Manitoba Hydro remains open to receiving input on criteria from the MMF.
25.	3.2 Selection of eligible offset land Table 1: Land Criteria and Rationale Page 12 – Page 13	"All"	"Please clarify whether the Criteria are ranked from 1 – 5, with 1 being most important and 5 least; or whether the Criteria will all be considered equally."	The criteria are not ranked.
26.	3.2 Selection of eligible offset land Table 1: Land Criteria and Rationale Page 12 – Page 13	"Criterion 1. Proximity to Project area (see Map 2) Rationale To focus offsets in undeveloped lands near the Project area within Manitoba"	"As noted above, the Area of Focus of which this criterion is based, was selected without direct consultation with the MMF on areas preferred for the exercise of section 35 Metis rights. Until this consultation has been undertaken it cannot be known whether undeveloped lands near the Project area are suitable; particularly as it has been noted that these parcels will most likely not be contiguous."	Manitoba Hydro has reviewed and considered Metis citizens' use of land in the area of focus as described in the MMF's MLOUS in the development of the criteria and the area of focus.

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			See comment #19 above regarding the Area of Focus."	
27.	3.2 Selection of eligible offset land Table 1: Land Criteria and Rationale Page 12 – Page 13	Criterion 2. Suitability for exercising Aboriginal and Treaty rights"	<p>"A distinctions-based approach must be considered in implementing these criteria. Specifically, an approach that reflects that Metis rights are distinct from First Nations rights must be employed.</p> <p>The rationale for this criterial should be revised to include an acknowledgement that a distinction-based approach will be used that includes considering the suitability of a parcel for exercising <i>Metis</i> rights and traditional practices as a distinct factor."</p>	Manitoba Hydro continues to be open to input on Metis specific criteria for land selection and notes the suggested revisions to the criteria provided in Concerns #30 and #31 of this document, below.
28.	3.2 Selection of eligible offset land Table 1: Land Criteria and Rationale Page 12 – Page 13	"Criterion 3. Availability for fair market value Rationale To ensure funds are spent effectively"	"As it is unclear if the criteria are ranked, it is likewise not clear how the criterion of "available for fair market value" will be interpreted or applied. This criterion should not, for example, be used to exclude a parcel from consideration where it meets other agreed-upon criteria and is	Manitoba Hydro encourages the MMF to put forward parcels for review in the parcel selection process. Each parcel put forward will undergo review using all criteria put forth, not just 'Fair market value'.

Concern #	"Draft Final Crown Land Offset Measures Plan Section" MMF Appendix A ¹⁵	"dfClomp Details" MMF Appendix A	Description of any issues or concerns raised by the MMF regarding the draft final CLOMP	How Manitoba Hydro has addressed or responded to issues or concerns raised regarding the plan
			<p>identified by an Indigenous community. Instead, additional funds can be allocated by Manitoba Hydro to offset any deficit.</p> <p>This section should be revised to reflect that this criterion is not determinative and will not be used by Manitoba Hydro to exclude parcels that are identified by Indigenous communities based on cost alone. See comment #25 above regarding the ranking of criteria."</p>	
29.	<p>3.2 Selection of eligible offset land Table 1: Land Criteria and Rationale Page 12 – Page 13</p>	<p>"Criterion 4. Parcel not identified as part of TLE"</p>	<p>"As noted above, this criterion focuses only on First Nation criteria. Considering TLE processes to ensure that land selection under the CLOMP doesn't conflict with those processes does not account for the need to have the Plan:</p> <ul style="list-style-type: none">) include Metis-specific criteria/considerations, and) avoid conflicts with MMF land-related processes. <p>See comment #12 regarding further</p>	<p>Manitoba Hydro continues to be open to input on Metis specific criteria for land selection and notes the suggested revisions to the criteria provided in Concerns #30 and #31 of this document, below.</p>

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			<p>consultation with the MMF to ensure Metis-specific criteria and considerations are included and that the land- selection processes do not conflict with MMF processes. In addition, this criterion should be revised to not be TLE-specific and should include any lands/parcels not identified as part of the fulfillment of an outstanding claim or legal obligations owed by the Crown to an Indigenous community."</p>	
30.	<p>3.2 Selection of eligible offset land Table 1: Land Criteria and Rationale</p> <p>Page 12 – Page 13</p>	"All"	<p>"In addition to engaging in discussions with the MMF about developing Metis- specific criteria/considerations to include in the CLOMP, the following criteria should be expressly included:</p> <p>Parcels of contiguous land should be preferred; Parcels abutting or adjoining <i>Indian Act</i> reserve lands or TLE selections of any First Nation should not be considered; and</p>	<p>Manitoba Hydro is currently reviewing the proposed criteria. For clarification, the intent of the criteria termed 'Large tracts of private land near existing Crown land is preferable to smaller parcels far from Crown land' was to aim parcel purchases at large parcels of contiguous land.</p> <p>Manitoba Hydro has included a review process for those</p>

Concern #	"Draft Final Crown Land Offset Measures Plan Section" MMF Appendix A ¹⁵	"dfClomp Details" MMF Appendix A	Description of any issues or concerns raised by the MMF regarding the draft final CLOMP	How Manitoba Hydro has addressed or responded to issues or concerns raised regarding the plan
			<p>Parcels proposed by Indigenous communities should be an express consideration and included in Table 1 as a primary criterion not only a secondary consideration in Table 2.</p> <p>The above revisions should be made to the criteria and dfCLOMP."</p>	<p>communities with outstanding TLE. Some may prefer Crown land to private as an adjacent neighbour.</p> <p>Table 2 does not contain 'secondary considerations' and instead lists land characteristics considered for offsetting.</p>
31.	<p>3.2 Selection of eligible offset land</p> <p>Table 2: Land characteristics considered for offsetting</p> <p>Page 13 – Page 16</p>	"All"	<p>"In addition to engaging in discussions with MMF about developing Metis-specific criteria/considerations to include in the CLOMP, the following characteristics should be modified: the criteria/characteristics should not be limited to only private land as Crown land being sold off by the province should also be considered eligible for inclusion; "undeveloped land" and "land that contains critical habitat or traditional plants" should be separated out from private land as these are distinct</p>	Manitoba Hydro is currently reviewing the proposed criteria.

Concern #	"Draft Final Crown Land Offset Measures Plan Section" MMF Appendix A ¹⁵	"dfClomp Details" MMF Appendix A	Description of any issues or concerns raised by the MMF regarding the draft final CLOMP	How Manitoba Hydro has addressed or responded to issues or concerns raised regarding the plan
			<p>characteristics; and "land that contains critical habitat or traditional plants" should clarify that these are to support/related to the exercise of Aboriginal or Treaty rights to avoid this being interpreted as an environmental measure rather than to accommodate/offset impacts on Metis rights.</p> <p>The above revisions should be made to the criteria and dfCLOMP."</p>	
32.	<p>3.2 Selection of eligible offset land</p> <p>Table 2: Land characteristics considered for offsetting</p> <p>Page 13 – Page 16</p>	"All"	<p>"The rationale should be expanded to include each Indigenous communities' oral history testimony, traditional knowledge studies and supporting studies, letters of comment, etc. for each characteristic of land considered suitable for exercising Aboriginal and treaty rights rather than selected examples. This will allow for Indigenous communities to better weigh their input, the input of their peers, and identify where misunderstandings need to be</p>	<p>Manitoba Hydro reviewed the Project record and understands through consultation on this plan that the criteria put forward represent characteristics of the land that are important to many of the Indigenous communities participating in the Project.</p> <p>This plan has been updated to disaggregate comments and includes the letters sent by the</p>

Concern #	"Draft Final Crown Land Offset Measures Plan Section" MMF Appendix A ¹⁵	"dfClomp Details" MMF Appendix A	Description of any issues or concerns raised by the MMF regarding the draft final CLOMP	How Manitoba Hydro has addressed or responded to issues or concerns raised regarding the plan
			<p>corrected or additional Metis- specific information provided by the MMF.</p> <p>Please identify where Manitoba Hydro drew on information from the MMF in the development of the criteria so that the MMF can provide further input and comment on whether this information reflects an accurate understanding of Metis rights and concerns."</p>	<p>MMF on February 14, 2020 and June 29, 2020.</p> <p>Manitoba Hydro has reviewed and considered Metis citizens' use of land in the area of focus as described in the MMF's MLOUS in the development of the criteria.</p>
33.	<p>3.2 Selection of eligible offset land Selection Process</p> <p>Page 16</p>	<p>"Parcel descriptions will be developed using both online information and field visits coordinated by Manitoba Hydro, with the opportunity for participation by representatives from the 21 communities."</p>	<p>"Will the proposed field visits/tours be expected to be undertaken using the previously identified \$315,000 consultation support budget or will additional funds be identified to allow for representatives to attend?"</p> <p>See comment #15 above regarding insufficient funding allocated for consultation.</p> <p>Please provide additional details regarding funding for the site visits/tours. In addition, Manitoba</p>	<p>The \$315,000 budget is intended to include funding to support consultation on parcels that could include community coordinated field visits by representatives.</p> <p>Manitoba Hydro will make best efforts to include representatives from each Indigenous community that expresses an interest in site-visits. Tours will be organized in a manner that is consistent with the timeframes associated with</p>

Concern #	"Draft Final Crown Land Offset Measures Plan Section" MMF Appendix A ¹⁵	"dfClomp Details" MMF Appendix A	Description of any issues or concerns raised by the MMF regarding the draft final CLOMP	How Manitoba Hydro has addressed or responded to issues or concerns raised regarding the plan
			<p>Hydro should be required to make best efforts to include representatives from each Indigenous community that expresses an interest in site-visits; the CLOMP should be clear that relying on virtual tours, photos, or videos is <i>only</i> an option where best efforts have been made."</p>	<p>sale of specific parcels, and which adheres to the public health guidelines in place at the time. This may include virtual tours through the sharing of photos and video on the website to accommodate tight timeframes, safety, or for those unable to attend in person tours.</p>
34.	<p>3.3 Eligible Parcels will be reviewed by communities and Manitoba Hydro</p> <p>Page 17</p>	<p>"In order to accommodate potentially short windows to purchase available parcels of land, communities will initially have seven days to comment on the proposed parcel(s)."</p>	<p>"Seven days is an extremely tight timeline that will impair Indigenous participation in the review and selection of the parcels. This is compounded by capacity constraints and inadequate funding provided to participate in the review process (see comment #15 above).</p> <p>It is also unclear whether this is business or calendar days, whether the tour or site visit is also intended to take place within this time period, and how reviews will be managed when information is inadequate or unavailable (e.g. the environmental</p>	<p>To accommodate potentially short windows to purchase available parcels of land, community review of the land parcel(s) will also need to be expeditious. Short windows of opportunity would be determined by the real estate market in terms of how quickly a property may sell. As experience with this process is gained, the review period may be lengthened if the real estate market allows. It is hoped that having the criteria for selection already established will assist in minimizing the</p>

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			<p>site assessment may not be available within 7 days of identification).</p> <p>The length of time for review of parcels should be collaboratively developed with the MMF and include, among other things, considerations such as:</p> <p>Alignment with MMF’s Resolution No. 8 process and timelines for consultation;</p> <p>the number of parcels for review;</p> <p>the quantity and quality of information for review and consideration;</p> <p>the time required to conduct a site-visit with MMF representatives in attendance; and</p> <p>the time required to answer or address any questions that the MMF may have about the parcel.”</p>	length of time required for comment by communities.
35.	3.3 Eligible Parcels will be reviewed by communities	“Each time a parcel of set of land parcels are considered for purchase, individual	“Rather than a process that requires Indigenous communities to submit costs for reimbursement on an individual, ad-hoc, parcel by parcel	Manitoba Hydro is not planning to fund MMTP Crown Land Offset Measure Liaisons but rather support Cultural representatives

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	<p>and Manitoba Hydro</p> <p>Page 17</p>	<p>communities will be eligible for reimbursement from the Trust for reasonable costs to support their review, consistent with the Manitoba Hydro Reimbursement Policy."</p>	<p>basis, Manitoba Hydro should fund an MMTP Crown Land Offset Measures Liaison position for each of the Indigenous communities. Similar to the MMF Hydro Liaison position, that was included in the 2014 Turning the Page Agreement (which subsequently unilaterally terminated by Manitoba), this position would facilitate ongoing engagement between the MMF and Hydro related to the review and implementation of the Plan.</p> <p>Currently, the dfCLOMP process maximizes the administrative burden placed on Indigenous communities, does not allow for efficiency to be built by supporting dedicated staff/community capacity for reviewing parcels, and excludes the MMF as Hydro's Reimbursement Policy does not allow MMF staff receiving a salary to be reimbursed for their review/participation.</p>	<p>as described in Section 3.3. Manitoba Hydro has updated the monitoring plan to have the Cultural representatives participate in both an initial assessment of each offset parcel purchased and review of parcel use to gauge the overall effectiveness of the offset lands in supporting traditional use from a cultural values perspective. We would encourage Metis Citizens to participate.</p> <p>Please refer to 3.6 Monitoring & Reporting.</p> <p>Manitoba Hydro is open to further discussing with the MMF their concerns regarding the reimbursement policy for implementation of CLOMP</p>

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			<p>Manitoba Hydro should fund an MMTP Crown Land Offset Measure Liaison position for the MMF, and each Indigenous community, to support the parcel review and implementation work.</p> <p>In addition, the CLOMP should be revised so that reimbursement from the Trust for engagement and parcel identification/review costs is not done on a basis that excludes the MMF from participating, as Hydro's current Reimbursement Policy does."</p>	
36.	<p>3.3 Eligible Parcels will be reviewed by communities and Manitoba Hydro</p> <p>Page 18</p>	<p>"Manitoba Hydro will make the final decision regarding which parcels of land to purchase."</p>	<p>"As the CLOMP is to specifically address impacts to section 35 rights, the final decision on lands should be made by Indigenous communities, including the MMF, not Manitoba Hydro. True reconciliation comes with an understanding that the Manitoba Metis Federation is the democratically elected self-government representative of the</p>	<p>Manitoba Hydro is ultimately responsible for implementation of the Plan as a regulatory obligation; therefore, relying on external bodies to fulfil the Plan introduces risks. The revised Plan outlines a mechanism for the selection of offset land that is effective in striking a balance between the certainty Manitoba</p>

Concern #	"Draft Final Crown Land Offset Measures Plan Section" MMF Appendix A ¹⁵	"dfClomp Details" MMF Appendix A	Description of any issues or concerns raised by the MMF regarding the draft final CLOMP	How Manitoba Hydro has addressed or responded to issues or concerns raised regarding the plan
			<p>Manitoba Metis Community and must be involved in a decision-making role and capacity in the implementation of the CLOMP.</p> <p>A consensus-based and collaborative decision-making process for deciding on and ultimately purchasing lands should be developed that includes a clear decision-making role for the MMF. This decision-making process should be included in the CLOMP and developed in collaboration with the MMF. It should include, among other things, that Hydro make best efforts to achieve consensus and identify a minimum threshold of Indigenous communities' support before Manitoba Hydro be able to withdraw funds from the Trust to purchase lands."</p>	<p>Hydro requires to be compliant with regulatory obligations and being inclusive of preferences shared by Indigenous communities, while also considering the interests of certainty and efficiency of process. It is our hope that as we work through this process, consensus can be achieved on the majority of parcels.</p>
37.	3.5 Purchase lands will be converted to	"Manitoba Hydro proposes that parcels purchased would be	There are still significant concerns and unanswered questions regarding the CLOMP's implementation and the proposed agreement or MOA with	The Memorandum of Agreement between Manitoba Hydro and the Province has been drafted, which outlines the land transfer

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	<p>Crown lands</p> <p>Page 19</p>	<p>transferred to the Province of Manitoba pursuant to a written agreement or Memorandum of Agreement (MOA)..."</p>	<p>the Government of Manitoba. The details of the agreement and mechanism between Manitoba Hydro and the Government of Manitoba are not clear. As the CLOMP hinges on this fact, the draft agreement (or agreements) and mechanisms under discussion between Manitoba Hydro and the Government of Manitoba must be shared with the CER and the MMF, as well as other impacted Indigenous communities, for review. Among other things, there may be distinct concerns and risks raised by the MMF that need to be addressed in this agreement that directly relate to the effectiveness of the Plan for the Manitoba Métis Community. For example, among other things, there needs to be a legally binding mechanism in place so that any future Crown lands (and any adjacent Crown lands) will not be able to be added to First Nation</p>	<p>process. This MOA is shared in this Appendix.</p>

Concern #	"Draft Final Crown Land Offset Measures Plan Section" MMF Appendix A ¹⁵	"dfClomp Details" MMF Appendix A	Description of any issues or concerns raised by the MMF regarding the draft final CLOMP	How Manitoba Hydro has addressed or responded to issues or concerns raised regarding the plan
			<p>reserve lands through TLE selections.</p> <p>Manitoba Hydro must provide a copy of the draft agreement(s) or mechanisms being discussed between Manitoba Hydro and the Government of Manitoba regarding the transfer of offset lands to the provincial Crown to the MMF for review and comment. In addition, a copy of the draft agreement(s) or mechanisms must included in the CLOMP that is provided to the CER as part of its review of the Plan to ensure that it is implemented in a manner consistent with the honour of the Crown and purpose of Condition 22 as an accommodation measure."</p>	
38.	<p>3.5 Purchase lands will be converted to Crown lands</p> <p>Page 19</p>	<p>"...which would require the Province to withdraw the lands from disposition pursuant to s. 5(1) of</p>	<p>"It is important to note that in the process of converting the land to Provincial Crown land that all current Provincial Crown land regulations will apply. This means that access for non-Indigenous hunters and land</p>	<p>Yes, Manitoba Hydro has considered this eventuality. The Plan's overall objective is to place impacted Indigenous communities in as comparable a position as possible to the</p>

Concern #	"Draft Final Crown Land Offset Measures Plan Section" MMF Appendix A ¹⁵	"dfClomp Details" MMF Appendix A	Description of any issues or concerns raised by the MMF regarding the draft final CLOMP	How Manitoba Hydro has addressed or responded to issues or concerns raised regarding the plan
		The Crown Lands Act."	<p>users will not be restricted. Therefore, the offset land will most likely be used for activities other than the exercise of Indigenous rights by section 35 rights-holders. Has Manitoba Hydro considered this eventuality in its plan to hand over control to the Provincial Crown? How will this be addressed? How will these secondary impacts be accommodated in the CLOMP?</p> <p>See comments above regarding the need to address this concern through the identification of criteria with the MMF."</p>	position they were in prior to MMTP in terms of their ability to exercise traditional rights in the Project area. Accordingly, Manitoba Hydro's proposal is to create additional Provincial Crown land for the exercise of traditional rights by Indigenous communities in order to compensate for the permanent loss of Provincial Crown land on which portions of the Project are located. This new Crown land would have access permissions similar to that of the Crown land lost as a result of the Project.
39.	3.5 Purchase lands will be converted to Crown lands Page 19	"As of the date of this draft final Plan, the parties have not entered into this arrangement, but have been negotiating an MOA that, in Manitoba Hydro's view,	"It is troubling that, in advance of the dfCLOMP approval by the Canada Energy Regulator, Manitoba Hydro has proceeded to negotiate a MOA that is close to completion. This means that the MMF's involvement in the MOA has been non-existent and there is no guarantee that long-term accommodations to offset	The MOA is related to the transfer of land from Manitoba Hydro to the Province of Manitoba and does not describe details related to Condition 22, section 35 rights or effectiveness of the parcels being transferred.

Concern #	"Draft Final Crown Land Offset Measures Plan Section" MMF Appendix A ¹⁵	"dfClomp Details" MMF Appendix A	Description of any issues or concerns raised by the MMF regarding the draft final CLOMP	How Manitoba Hydro has addressed or responded to issues or concerns raised regarding the plan
		is close to completion."	<p>impacts to MMF's section 35 Metis rights are being accurately articulated or considered in this agreement.</p> <p>In addition, this draft MOA has not been shared with the MMF for review and comment. As the MMF has raised significant concerns with this component of the CLOMP—and since the MOA has implications for the long-term success or failure of the Plan—a draft of it should be shared with the MMF and the CER.</p> <p>See comment #37 above regarding the MMF's review of contemplated agreement(s) between Manitoba Hydro and the Government of Manitoba."</p>	
40.	<p>3.5 Purchase lands will be converted to Crown lands</p> <p>Page 19</p>	"Manitoba Hydro intends the MOA to protect against the risk of the Province disposing of the newly acquired	"It is concerning that Manitoba Hydro <i>intends</i> the MOA to protect against the Province disposing of the newly acquired offset lands but has admitted that this is not guaranteed by the CLOMP. This is of particular	Manitoba Hydro has addressed this concern by proposing a written agreement with the Province (draft included in Appendix C) which will require the lands to be accepted by

Concern #	"Draft Final Crown Land Offset Measures Plan Section" MMF Appendix A ¹⁵	"dfClomp Details" MMF Appendix A	Description of any issues or concerns raised by the MMF regarding the draft final CLOMP	How Manitoba Hydro has addressed or responded to issues or concerns raised regarding the plan
		offset lands and to provide a remedy in the event of such disposition."	<p>concern in relation to the MMF who have already experienced a breach of the honor of the Crown by the Provincial government through a "directive" which purported to direct Manitoba Hydro to not proceed with the accommodation agreement reached with the MMF regarding this project. If the Government of Manitoba can make this sweeping decision that breaches agreements, its own laws, and the honor of the Crown – what will prevent it from disposing the CLOMP offset lands once transferred to them? That would be the definition of leaving the Métis with an empty shell of a promise.</p> <p>The MMF has previously expressed the preference for any offset lands to be provided to the federal Crown in part to alleviate this concern regarding the ongoing honourable implementation of the CLOMP. As</p>	<p>Order in Council and removed from disposition pursuant to The Crown Lands Act. The agreement also restricts the Province from subsequently disposing of or encumbering the land and requires the terms of the agreement be recorded in Crown Land and Mines registries so that the purpose and intent of the lands are kept in perpetuity. As per terms of the agreement Manitoba shall provide notice to Manitoba Hydro in the event land is to be transferred, disposed or encumbered so that it can be transferred back to Manitoba Hydro or reimburse Manitoba Hydro for said land. Manitoba Hydro will ensure the transferred land is available or replaced with equivalent land for traditional use by Indigenous Communities.</p>

Concern #	"Draft Final Crown Land Offset Measures Plan Section" MMF Appendix A ¹⁵	"dfClomp Details" MMF Appendix A	Description of any issues or concerns raised by the MMF regarding the draft final CLOMP	How Manitoba Hydro has addressed or responded to issues or concerns raised regarding the plan
			<p>this is a federally assigned Condition of approval, this would align with the ultimate responsibility for ensuring that the Condition continued to be fulfilled in a manner consistent with the honour of the Crown.</p> <p>In addition, there has been no consultation with the MMF about what this "remedy" may be should the province dispose of the offset lands. What is the remedy under discussion? Would it be provided by Hydro? By Manitoba? To the Indigenous communities? To Hydro? How does it address and accommodate for impacts on Metis rights? It is entirely unclear.</p> <p>See comment #37 regarding the MMF's review of the contemplated agreement(s) between Manitoba Hydro and the Government of Manitoba.</p>	

Concern #	"Draft Final Crown Land Offset Measures Plan Section" MMF Appendix A ¹⁵	"dfClomp Details" MMF Appendix A	Description of any issues or concerns raised by the MMF regarding the draft final CLOMP	How Manitoba Hydro has addressed or responded to issues or concerns raised regarding the plan
			<p>In addition, Manitoba Hydro must engage with the MMF about what this “remedy” is should the Government of Manitoba dispose of the proposed offset lands once they are transferred to the Crown. In addition, clear and complete information about this “remedy” must be included in the CLOMP that is submitted to the CER for approval.”</p>	
41.	<p>3.6 Monitoring & reporting Monitoring Page 19</p>	<p>“Once the purchased lands are transferred to the Province and designated as Crown lands, the management and control of these offset lands will be outside of Manitoba Hydro’s purview. It is Manitoba Hydro’s understanding that, once the parcels are</p>	<p>“The ongoing monitoring and management of the offset lands to ensure their continued ability to be lands suitable for the exercise of Aboriginal and Treaty right by Indigenous peoples is a critical component of the effectiveness of the CLOMP as an accommodation measure provided for by the federal Crown. It is not sufficient for Manitoba Hydro to say that after 5 years it has no ability or responsibility to ensure this ongoing management.</p>	<p>Manitoba Hydro has updated the monitoring plan to include support for Cultural representatives to participate in selecting and monitoring of the land parcels. We would encourage Metis Citizens to participate.</p> <p>Please refer to 3.6 Monitoring & reporting which outlines timing for monitoring initiatives.</p>

Concern #	"Draft Final Crown Land Offset Measures Plan Section" MMF Appendix A ¹⁵	"dfClomp Details" MMF Appendix A	Description of any issues or concerns raised by the MMF regarding the draft final CLOMP	How Manitoba Hydro has addressed or responded to issues or concerns raised regarding the plan
		<p>converted to Crown Land, the lands would fall under Provincial responsibility and would be managed in a similar manner to existing undeveloped Crown land."</p>	<p>An ongoing co-management arrangement or agreement (that includes funding for each Indigenous communities' participation) would be a potential way of addressing this concern. This co- or joint-management agreement should be implemented between Manitoba Hydro and the Indigenous communities as soon as lands begin to be purchased to allow for monitoring and management during the 5 years that Hydro has said it anticipates taking to fulfill the Plan. Funding to support Indigenous communities' participation in this co-management process must be provided beyond the 5 years (this could potentially be included through additions to the Trust, or provided through other mutually-agreeable means).</p> <p>Manitoba Hydro should consult with the MMF to develop a co-</p>	<p>Management of any new Crown land created through this process will be similar to existing Provincial Crown land management, and will rest with the Province.</p>

Concern #	"Draft Final Crown Land Offset Measures Plan Section" MMF Appendix A ¹⁵	"dfClomp Details" MMF Appendix A	Description of any issues or concerns raised by the MMF regarding the draft final CLOMP	How Manitoba Hydro has addressed or responded to issues or concerns raised regarding the plan
			<p>management arrangement for the ongoing monitoring and management of the offset lands. Funding for the MMF's participation in this co-management process must also be provided. This co-management arrangement must extend for the lifetime of the accommodation measure (e.g. for as long as the lands are being used as an offset for the MMTP)."</p>	
42.	<p>3.6 Monitoring & reporting</p> <p>Monitoring</p> <p>Page 20</p>	<p>"After all parcels have been purchased, Manitoba Hydro will arrange meeting(s) or offer a survey, either individually or in a group setting, to obtain feedback on the lands purchased and gauge to what extent members of Indigenous communities are</p>	<p>"Section 35 Metis rights are not "use it, or lose it" and the efficacy of the CLOMP should not be gauged through the extent it is used by the MMF, rather a review process should be undertaken that considers the intrinsic value the land provides to the Metis community overall and its effectiveness in accomplishing the purpose of Condition 22 (e.g. lands suitable for the exercise of Aboriginal and Treaty rights by Indigenous communities, including the Manitoba Metis Community).</p>	<p>We agree that section 35 Metis rights are not "use it or lose it".</p> <p>Manitoba Hydro has updated the monitoring plan to include funding Cultural representatives to participate in selecting and monitoring of the land parcels. We would encourage Metis Citizens to participate.</p> <p>Please refer to 3.6 Monitoring & reporting.</p>

Concern #	"Draft Final Crown Land Offset Measures Plan Section" MMF Appendix A ¹⁵	"dfClomp Details" MMF Appendix A	Description of any issues or concerns raised by the MMF regarding the draft final CLOMP	How Manitoba Hydro has addressed or responded to issues or concerns raised regarding the plan
		using the purchased lands."	<p>During the period that land continues to be identified and selected, the purpose of the effectiveness review can include, among other things, identifying measures to increase effectiveness, incorporating lessons learned, and responding to issues raised by Indigenous communities in the implementation and parcel selection process.</p> <p>Once the total offset lands have been identified and protected, the purpose of the effectiveness review should shift to ensuring that the lands continue to be suitable for the exercise of Aboriginal and Treaty rights, including by the Metis. This should include corrective measures or remedies to address future deficiencies in the overall effectiveness of the CLOMP (e.g. environmental remediation if the lands become contaminated in any way, measures to respond to</p>	

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			<p>overharvesting or other resource-pressures, etc.). In particular, specific consideration should be given, on an ongoing basis, to the sustainability of the offset lands in continuing to provide lands suitable for the exercise of Aboriginal rights and traditional practices of the Manitoba Métis Community. With the limited amount of lands available in southern Manitoba, it can be reasonably expected that these offset lands will face increasing pressures that could affect the ability of Indigenous communities to use them for the exercise of their rights (e.g. from non-Indigenous harvesters, etc.). Funding for sustainability measures and corrective stewardship actions to be taken by the MMF, and other Indigenous communities, should be included in the Trust and the Effectiveness Review.</p> <p>The CLOMP should be revised to</p>	

Concern #	"Draft Final Crown Land Offset Measures Plan Section" MMF Appendix A ¹⁵	"dfClomp Details" MMF Appendix A	Description of any issues or concerns raised by the MMF regarding the draft final CLOMP	How Manitoba Hydro has addressed or responded to issues or concerns raised regarding the plan
			<p>include a joint Effectiveness Review undertaken by Manitoba Hydro collaboratively with the Indigenous communities, including the MMF. This Effectiveness Review should be completed annually for the first five years (or until the total quantum of land is set aside) and then every five years for the life of the project. Funding should be provided to support the MMF and each Indigenous communities' ability to participate in this review.</p> <p>The CLOMP should state that copies of the Effectiveness Review will be filed with the CER, for approval, to allow the federal regulator to monitor and ensure the ongoing implementation and effectiveness of the CLOMP, as an accommodation measure for impacts on Metis rights, consistent with what is required to uphold the honour of the Crown."</p>	

Concern #	"Draft Final Crown Land Offset Measures Plan Section" MMF Appendix A ¹⁵	"dfClomp Details" MMF Appendix A	Description of any issues or concerns raised by the MMF regarding the draft final CLOMP	How Manitoba Hydro has addressed or responded to issues or concerns raised regarding the plan
43.	<p>4.0 Summary of consultations on draft plan</p> <p>Seeking Feedback</p> <p>Page 21</p>	<p>"Manitoba Hydro asked communities to comment on the November 2019 draft plan. Appendix C describes concerns regarding the draft plan shared in November of 2019. Feedback from Indigenous communities was focused in the following key areas: more time and funding were needed to fully consider the information presented; the discussion of Crown land offsets should be held with leadership, not the MMTP Monitoring</p>	<p>"This summary of concerns is insufficient in that there is no detail on how the feedback listed was addressed. Was more time and funding provided to consider the information presented? The MMF indicated in its June 29, 2020 letter that there would only be less than three weeks to review the dfCLOMP and provide feedback before the plan will be submitted to the CER. This is not reflective of increased time for review.</p> <p>Were the Crown land offset discussions held with leadership? This has not been the case with the MMF as they have only three weeks for review and this leaves little time for leadership engagement.</p> <p>As noted above, the MMF was not engaged to provide community input and guidance in the definition of the</p>	<p>Appendix C of the final plan provides a summary of the feedback received, and Manitoba Hydro's response (see Tables C-1 through C-7).</p> <p>Manitoba Hydro shared the initial draft plan for Condition 22 in November of 2019. Manitoba Hydro shared this plan with President Chartrand, Marci Riel and Jade Dewar. Over the following months Manitoba Hydro sought feedback from the MMF on its initial draft Plans through a variety of mechanisms as outlined in its July 24, 2020 letter to the MMF.</p> <p>Manitoba Hydro has provided support to the MMF to consult on the draft final CLOMP and Summary Approach. Manitoba Hydro included Director Marci Riel and President Chartrand in</p>

Concern #	"Draft Final Crown Land Offset Measures Plan Section" MMF Appendix A ¹⁵	"dfClomp Details" MMF Appendix A	Description of any issues or concerns raised by the MMF regarding the draft final CLOMP	How Manitoba Hydro has addressed or responded to issues or concerns raised regarding the plan
		<p>Committee; revising the approach to offsetting to include community input and guidance in land purchases to address concerns related to TLE; the way permanent loss is defined by Manitoba Hydro is not considered to be inclusive enough as it did not consider the entire right-of-way; and, there were concerns with the proposed process going through the Province of Manitoba to enable land acquisition."</p>	<p>criteria to ensure concerns related to TLE or other land selection was considered. Specifically, this is a concern that requires the unique input by the MMF as through TLE processes lands are gained by First Nations but ultimately lost to harvesting and other pursuits by the Metis. This is one clear example where Manitoba Hydro's pan-Indigenous approach continues to prejudice the Metis.</p> <p>There is no discussion on how Manitoba Hydro is defining 'permanent loss' or responding to the MMF, or other Indigenous communities' concerns, that this definition is minimizing the Crown lands permanently lost due to the project. Manitoba Hydro's approach of only identifying transmission tower locations as permanently lost has not been altered.</p>	<p>communications regarding planning documents. We understand that a meeting with Metis citizens occurred on August 18, 2020 and this meeting is a key reason why MMF comments could not be confirmed until August 24, 2020.</p> <p>It is Manitoba Hydro's position that the permanent loss of Crown land is limited to the area under towers.</p> <p>The Province is the only agency that can create provincial Crown lands.</p>

Concern #	"Draft Final Crown Land Offset Measures Plan Section" MMF Appendix A ¹⁵	"dfClomp Details" MMF Appendix A	Description of any issues or concerns raised by the MMF regarding the draft final CLOMP	How Manitoba Hydro has addressed or responded to issues or concerns raised regarding the plan
			<p>Finally, there has been no amendment to the process of using the Government of Manitoba to enable land acquisition despite concerns raised by the MMF.</p> <p>This summary should be updated to include Manitoba Hydro’s responses to the feedback and concerns raised by Indigenous communities, including the MMF.”</p>	
44.	<p>5.1 Effectiveness of land offsets versus compensation</p> <p>Page 25</p>	<p>“When revisiting the draft final Plan Manitoba Hydro considered if purchasing land offsets or if providing monetary compensation is more effective.”</p>	<p>“Land offsets and compensation do not have to be mutually exclusive. For example, if there are three parcels of land conducive to Metis harvesting that are preferred by the MMF, meeting the criteria and available for purchase, but the third parcel is non-contiguous, monetary compensation could be provided for the non-contiguous parcel instead. This could contribute to the overall wellbeing of Metis harvesters while the two contiguous parcels could be</p>	<p>Manitoba Hydro contemplated compensation to individual communities initially and considered it less effective as a mechanism. Manitoba Hydro heard throughout Project engagement that lands available for practicing rights-based activities is limited in southern Manitoba. These understandings shared during Project review indicate the importance of replacing land.</p>

Concern #	"Draft Final Crown Land Offset Measures Plan Section" MMF Appendix A ¹⁵	"dfClomp Details" MMF Appendix A	Description of any issues or concerns raised by the MMF regarding the draft final CLOMP	How Manitoba Hydro has addressed or responded to issues or concerns raised regarding the plan
			<p>incorporated as part of the land offsets.</p> <p>Why is Manitoba Hydro presenting these two options of accommodation as an either, or situation? See comment #45 regarding adopting a mitigation hierarchy and revising the CLOMP to include more than one offset measure, including compensation."</p>	
45.	<p>5.1 Effectiveness of land offsets versus compensation</p> <p>Page 26</p>	<p>"The mitigation hierarchy discourages the use of compensation as it is viewed as a way for proponents to purchase a license to damage the environment."</p>	<p>"The mitigation hierarchy does not discourage the use of compensation. It is typically viewed as a method to recompense for damages in the case of a project not achieving a net gain. This is particularly important when dealing with impacts to section 35 rights, where the rights may not be fully quantified in a regulatory process, not fully assessed, and impossible to fully offset through one measure. For example, if there are no lands meeting the criteria that include a particular plant or species of</p>	<p>It continues to be Manitoba Hydro's position that the mitigation hierarchy applies, in that avoidance is more effective than rehabilitation and rehabilitation is more effective than offsetting and offsetting is more effective than compensation.</p>

Concern #	"Draft Final Crown Land Offset Measures Plan Section" MMF Appendix A ¹⁵	"dfClomp Details" MMF Appendix A	Description of any issues or concerns raised by the MMF regarding the draft final CLOMP	How Manitoba Hydro has addressed or responded to issues or concerns raised regarding the plan
			<p>cultural significance to the Metis then an effective use of the mitigation hierarchy would allow for other measures or compensation to be provided to harvesters to accommodate this impact. This is also important if Manitoba Hydro proceeds with the Area of Focus where land available may not be contiguous or support similar exercise of rights and the net gain is not possible for section 35 Metis rights.</p> <p>The CLOMP should be revised to include compensation as an offset/accommodation measure."</p>	
46.	<p>5.2 Effectiveness of mechanism for selecting and securing offset land</p> <p>Page 27</p>	<p>"The revised Plan outlines a mechanism for the selection of offset land that is effective in striking a balance between the certainty Manitoba Hydro requires to be</p>	<p>"This section is contradictory to Section 3.6. In this Section, Manitoba Hydro is concerned with the implementation of the CLOMP as a regulatory obligation and eschews relying on external bodies or consensus models of decision making as it introduces risk. However, in Section 3.6, Manitoba Hydro fully</p>	<p>Relying on consensus-based decision making for 21 Indigenous communities to come to agreement on parcel selection is distinct from transferring land parcels to the Crown in that there is no decision-making once land is transferred to the Crown.</p>

Concern #	"Draft Final Crown Land Offset Measures Plan Section" MMF Appendix A ¹⁵	"dfClomp Details" MMF Appendix A	Description of any issues or concerns raised by the MMF regarding the draft final CLOMP	How Manitoba Hydro has addressed or responded to issues or concerns raised regarding the plan
		compliant with regulatory obligations and being inclusive of preferences shared by Indigenous communities. Under the revised Plan, Manitoba Hydro is responsible for identifying eligible parcels of offset land in collaboration with Indigenous communities."	abdicates responsibility for the regulatory obligations to the provincial Crown within 5 years once the land has been purchased. This places the offset land at risk as there is no guarantee the Province will not dispose the land following the provision of control. Either relying on external bodies is a risk or it isn't. The dfCLOMP should be revised to be internally consistent on this point."	Manitoba Hydro is required to clearly demonstrate that EC-059 Certificate Conditions are met. Please See Response 40 for additional information on agreement and disposal of lands
47.	5.2 Effectiveness of mechanism for selecting and securing offset land Page 27	"Since the offset land that is designated for traditional use will be available to all potentially impacted communities, Manitoba Hydro expects that the Plan will be equally	"Condition 22 requires the CLOMP to identify the effectiveness of the plan on "each Indigenous community." As noted above, the federal Crown modified Condition 22 as part of fulfilling its duty to consult and accommodate. The duty to consult and accommodate is owed to <i>each</i> impacted Indigenous Community; it is not enough to say, for example, that	In developing the Plan, Manitoba Hydro focused on the best means of achieving the purpose of the Plan, which in the case of MMTP is to offset for the loss of permanent Provincial Crown land that has been used by various Indigenous communities to a similar extent for the exercise of traditional rights. In Manitoba

Concern #	"Draft Final Crown Land Offset Measures Plan Section" MMF Appendix A ¹⁵	"dfClomp Details" MMF Appendix A	Description of any issues or concerns raised by the MMF regarding the draft final CLOMP	How Manitoba Hydro has addressed or responded to issues or concerns raised regarding the plan
		effective for each community."	<p>providing accommodation measures aimed at offsetting impacts on fish apply to all Indigenous communities without knowing whether those Indigenous communities harvest fish (or for that matter, what species of fish, where, and how they harvest).</p> <p>Currently, this statement provides insufficient detail for the MMF (or CER) to verify that the plan will in fact be effective for the Manitoba Metis Community. In order to understand the basis on which Manitoba Hydro is making this conclusion, the MMF requests:</p> <ul style="list-style-type: none"> i) Manitoba Hydro's evidence of the Métis traditional land use practices and exercise of Métis rights; and ii) Manitoba's Hydro's analysis of how the proposed land selection area/Area of Focus includes sufficient quantity and quality of lands suitable for the Manitoba Métis Community in 	<p>Hydro's view, the most effective means of addressing this loss is to create more Provincial Crown land that is suitable for use by all impacted Indigenous communities alike. This type of approach is inconsistent with the development of alternative measures that can be elected by individual communities.</p> <p>Since MMTP only affects Provincial Crown land, it is appropriate to offset this loss with additional Provincial Crown land.</p> <p>Manitoba Hydro has reviewed the MMF Land Use and Occupancy Study. This study illustrates traditional use activities within the Area of Focus for Land Selection.</p>

Concern #	"Draft Final Crown Land Offset Measures Plan Section" MMF Appendix A ¹⁵	"dfClomp Details" MMF Appendix A	Description of any issues or concerns raised by the MMF regarding the draft final CLOMP	How Manitoba Hydro has addressed or responded to issues or concerns raised regarding the plan
			<p>light of the information in i).</p> <p>The MMF requests the information on which Manitoba Hydro is relying when making this statement for the Manitoba Metis Community, including the details outlined above."</p>	
48.	<p>6.0 Decision-making criteria</p> <p>Page 28</p>	<p>"In response to the concern raised by the Manitoba Metis Federation that Manitoba Hydro has not proposed alternative types of offset/compensation measures and associated selection criteria, Manitoba Hydro clarifies that it does not interpret the condition as including such a requirement. Manitoba Hydro</p>	<p>"Manitoba Hydro appears to be misconstruing the MMF's previous statements regarding the need for a Plan that includes a list of offset or compensation measures with an approach whereby "alternative measures . . . can be elected by individual communities."</p> <p>As outlined above, incorporating a mitigation hierarchy into the CLOMP is distinct from the decision-making criteria that is used in implementing that hierarchy (e.g. whether measures can be elected by communities).</p> <p>Manitoba Hydro must revise this</p>	<p>Manitoba Hydro has focused on replacing permanently lost Crown land as the measure for fulfilling Condition 22. In Manitoba Hydro's view, the most effective means of addressing this loss is to create more Provincial Crown land that is suitable for use by all impacted Indigenous communities alike.</p>

Concern #	"Draft Final Crown Land Offset Measures Plan Section" MMF Appendix A ¹⁵	"dfClomp Details" MMF Appendix A	Description of any issues or concerns raised by the MMF regarding the draft final CLOMP	How Manitoba Hydro has addressed or responded to issues or concerns raised regarding the plan
		<p>believes that the wording of the condition should be interpreted consistent with its purpose. In developing its Plan, Manitoba Hydro focused on the best means of achieving the purpose of the Plan, which in the case of MMTP is to compensate for the loss of permanent Provincial Crown land that has been used by various Indigenous communities to a similar extent for the exercise of traditional rights. In Manitoba Hydro's view, the most</p>	<p>section so that it does not mis-state the MMF's concern.</p> <p>See Comment #45 for why selecting only one general type of offset measure is not appropriate and why compensation should also be included."</p>	

Concern #	"Draft Final Crown Land Offset Measures Plan Section" MMF Appendix A ¹⁵	"dfClomp Details" MMF Appendix A	Description of any issues or concerns raised by the MMF regarding the draft final CLOMP	How Manitoba Hydro has addressed or responded to issues or concerns raised regarding the plan
		<p>effective means of addressing this loss is to create more Provincial Crown land that is suitable for use by all impacted Indigenous communities alike. This type of approach is inconsistent with the development of alternative measures that can be elected by individual communities."</p>		
49.	<p>Map 1: A description of site-specific details and maps showing the locations where Crown land is no</p>	"All"	<p>"Crown land no longer available for traditional use as a result of the Project is not limited to the tower transmission locations as specified in these maps.</p> <p>These maps should be updated in light of the adjusted calculation of</p>	<p>It is Manitoba Hydro's position that the permanent loss of Crown land is limited to the area under towers.</p>

Concern #	"Draft Final Crown Land Offset Measures Plan Section" MMF Appendix A ¹⁵	"dfClomp Details" MMF Appendix A	Description of any issues or concerns raised by the MMF regarding the draft final CLOMP	How Manitoba Hydro has addressed or responded to issues or concerns raised regarding the plan
	<p>longer available for traditional use as a result of the Project</p> <p>Page 34 – Page 51</p>		<p>permanent loss of land to the Manitoba Metis Community. See Comment #22 for additional details."</p>	
50.	<p>Table B-1: Communities included and communication log</p> <p>Manitoba Metis Federation</p> <p>Page 19 – Page 21</p>	"All"	<p>"No details are provided in the record of communication. For example, the record states when letters were sent, and responses provided but there is no detail of what concerns were raised and whether they were addressed to the satisfaction of the MMF. Consultation must be substantive and cannot be just going through the motions to document empty results, as this log currently displays. It is clear from the repeated communication from MMF that the issues with the dfCLOMP have not been resolved to their satisfaction and remain outstanding.</p>	<p>Appendix C of the final plan provides a summary of the feedback received, and Manitoba Hydro's response (see Tables C-1 through C-7).</p> <p>Manitoba Hydro looks forward to continuing to work with the MMF to discuss outstanding concerns.</p>

Concern #	"Draft Final Crown Land Offset Measures Plan Section" MMF Appendix A ¹⁵	"dfClomp Details" MMF Appendix A	Description of any issues or concerns raised by the MMF regarding the draft final CLOMP	How Manitoba Hydro has addressed or responded to issues or concerns raised regarding the plan
			<p>The communications log in Table B-1 should be updated to include substantive information regarding the concerns raised, whether Manitoba Hydro responded to those concerns, and if so, what the response was. In addition, this revised information should be provided to the MMF for review and comment to ensure its accuracy."</p>	
51.	Appendix C and Table C-2	"All"	<p>"Appendix C does not include the MMF's comments on the November 2019 draft Plan that were provided to Manitoba Hydro in a letter dated February 14, 2020, or the MMF's comments on the "Summary Approach" that were provided in MMF's letter dated June 29, 2020.</p> <p>Appendix C and Table C-2 should be updated to include the information in the MMF's previous letters and the comments, concerns, and questions in this chart. In addition,</p>	<p>Appendix C of the final plan provides a summary of the feedback received, and Manitoba Hydro's response (see Tables C-1 through C-7).</p> <p>This plan has been updated to disaggregate comments and includes the letters sent by the MMF on February 14, 2020 and June 29, 2020.</p>

Concern #	"Draft Final Crown Land Offset Measures Plan Section" MMF Appendix A ¹⁵	"dfClomp Details" MMF Appendix A	Description of any issues or concerns raised by the MMF regarding the draft final CLOMP	How Manitoba Hydro has addressed or responded to issues or concerns raised regarding the plan
			<p>this revised information should be provided to the MMF for review and comment to ensure its accuracy. Please include a column in this Table for the MMF to identify whether the concerns/questions have been adequately addressed."</p>	
52.	<p>Map 1 Crown land intersected by the Project</p> <p>Page 18</p>	"All"	<p>"Please provide a hectare calculation for the Crown land intersected by the Project that is represented on this map."</p>	<p>The calculation was done using GIS. It is the actual footprint of the towers on Crown land including the intersection of tower polygons and crown land polygons. Based on this calculation, the estimated total area of permanent Crown land loss associated with tower footprints is 24.1 hectares.</p>
53.	N/A	"none"	<p>"The dfCLOMP does not include a dispute resolution process and it is unclear how concerns raised by Indigenous communities regarding the implementation of the plan will be addressed by Manitoba Hydro. This is a particular concern for the</p>	<p>In its August 11 Letter Decision the Commission found that Manitoba Hydro is in compliance with Conditions 3 of the Certificate.</p>

Concern #	"Draft Final Crown Land Offset Measures Plan Section" MMF Appendix A ¹⁵	"dfClomp Details" MMF Appendix A	Description of any issues or concerns raised by the MMF regarding the draft final CLOMP	How Manitoba Hydro has addressed or responded to issues or concerns raised regarding the plan
			<p>MMF who has repeatedly requested that Manitoba Hydro enter into alternative dispute resolution processes with it regarding the implementation of Condition 3 of the Certificate. Manitoba Hydro has repeatedly refused.</p> <p>The CLOMP should be revised to include a dispute resolution process. Manitoba Hydro should engage with the MMF on the development of this dispute resolution process."</p>	<p>Manitoba Hydro will continue to be open to feedback from Indigenous communities on this process and have demonstrated responsiveness to concerns throughout Project review and Condition development. Manitoba Hydro does not feel a dispute resolution process is required at this time.</p>

C-6 Responses to Canupawakpa Dakota Nation’s August 19, 2020 letter regarding the draft CLOMP (Canupawakpa Dakota Nation, August 19, 2020)¹⁶.

Category of Concern	Description of any issues or concerns raised regarding the plan from Canupawakpa Dakota Nation	How Manitoba Hydro has addressed or responded to issues or concerns raised regarding the plan
Concern with consultation	“We are stating that we as the Canupawakpa Dakota Nation be represented in the decisions in the draft plan to allocate resources for purchasing crown land to mitigate the land used for this project. ¹⁶	Manitoba Hydro looks forward to continuing to work with Canupawakpa Dakota Nation.
Concern with the proposed offset plan process	“We discussed with the community Elders and in agreement the importance of allocating land in the vicinity of Canupawakpa Dakota Nation for future use in areas of land-based education, traditional harvesting, and food sustainability for future generations.” ¹⁶	<p>The Plan's overall objective is to place impacted Indigenous communities in as comparable a position as possible to the position they were in prior to MMTP in terms of their ability to exercise traditional rights in the Project area. Accordingly, Manitoba Hydro's proposal is to create new Provincial Crown land for the exercise of traditional rights by Indigenous communities achieves this goal.</p> <p>Manitoba Hydro has identified a specific area of Manitoba to direct parcel selections, the Area of Focus shown in Map 2.</p>
Comments related to compensation vs offsetting	“It is recommended by the Canupawakpa Dakota Nation that Manitoba Hydro utilize the Berger Formula so that each community involved in this project will receive an equitable share of resources and for our	In developing the Plan, Manitoba Hydro focused on the best means of achieving the purpose of the Plan, which in the case of MMTP is to offset for the loss of permanent Provincial Crown land that has been used by various Indigenous communities to a similar extent

¹⁶ Canupawakpa Dakota Nation. (2020, August 19). Letter from Canupawakpa Dakota Nation. Canupawakpa Dakota Nation, MB, Canada.

Category of Concern	Description of any issues or concerns raised regarding the plan from Canupawakpa Dakota Nation	How Manitoba Hydro has addressed or responded to issues or concerns raised regarding the plan
	community to acquire the said land in the vicinity of Canupawakpa Dakota Nation #59.” ¹⁶	for the exercise of traditional rights. In Manitoba Hydro’s view, the most effective means of addressing this loss is to create more Provincial Crown land that is suitable for use by all impacted Indigenous communities alike.
Concern with the proposed offset plan process	“We are requesting that monies not expended in the consultation component be allocated to the actual purchase of acquiring land resources.” ¹⁶	Manitoba Hydro will seek further engagement on the administration of the Trust if the Trust allocation for purchasing offset land is not fully exhausted by the time 96.4 ha of land has been acquired. If the surplus is sufficient to make another land purchase, Manitoba Hydro will reach out to participants to discuss if communities are of the view that the surplus should be used to purchase more land, taking into consideration the effectiveness of previous purchases based on monitoring. If the surplus is too small to make a further land purchase or if further purchases are not warranted, Manitoba Hydro will engage with communities to consider whether there are other ways of allocating remaining funds that are consistent with the purposes of the Trust. This will be considered during an annual review.

C-7 Responses to Dakota Tipi First Nation’s August 21, 2020 letter regarding Condition 22 the draft CLOMP (Dakota Tipi First Nation, August 21, 2020)¹⁷

Category of Concern	Description of any issues or concerns raised regarding the plan from Dakota Tipi First Nation	How Manitoba Hydro has addressed or responded to issues or concerns raised regarding the plan
Feedback on consultation	“Dakota Tipi First Nation representatives would like to first and foremost present to Manitoba Hydro that the Dakota Tipi First Nation is one (1) of nine (9) current Dakota Nations within Canada and one (1) of five (5) within Manitoba. Dakota Tipi First Nation would like to present that it has not ever entered into or is signatory to a Treaty with any foreign Government (such as Canada/ Province of Manitoba) and that the Dakota people of Canada today never ceded nor surrendered to any foreign Government as it continues to exist/remains today. Dakota Tipi First Nation would like to additionally present that there are regions (modern day	Thank you for sharing this understanding. Manitoba Hydro looks forward to continuing to work with Dakota Tipi First Nation.

¹⁷ Dakota Tipi First Nation. (2020, August 21). Dakota Tipi First Nation Response to Manitoba Hydro. Dakota Tipi First Nation, MB, Canada.

Category of Concern	Description of any issues or concerns raised regarding the plan from Dakota Tipi First Nation	How Manitoba Hydro has addressed or responded to issues or concerns raised regarding the plan
	southern regions of Manitoba, Saskatchewan and sections of Alberta) that are still considered Dakota traditional territories by way of traditional view and in consideration to the non-Treaty status of the Canada Dakota's today." ¹⁷	
Feedback on consultation	"Dakota Tipi First Nation requests that Manitoba Hydro continue to work with Dakota Tipi First Nation in all consultation regards and is supportive of Manitoba Hydro's consultation processes." ¹⁷	Manitoba Hydro looks forward to continuing to work with Dakota Tipi First Nation.
Feedback on the proposed offset plan process	"Dakota Tipi First Nation supports this process being proposed by Manitoba Hydro." ¹⁷	Thank you, Manitoba Hydro appreciates the support.
Concern with the proposed offset plan process	"Dakota Tipi First Nation has presented that there are private land parcels for which the Dakota Tipi First Nation is currently seeking to obtain (purchase) which are the River Lots of 17 and 20 (Kroeker Farm Ltd. And RM of Portage la Prairie respectively sites) located	The Plan's overall objective is to place impacted Indigenous communities in as comparable a position as possible to the position they were in prior to MMTP in terms of their ability to exercise traditional rights in the Project area. Accordingly, Manitoba Hydro's proposal is to create new Provincial Crown land for the exercise of traditional rights by Indigenous communities achieves this goal.

Category of Concern	Description of any issues or concerns raised regarding the plan from Dakota Tipi First Nation	How Manitoba Hydro has addressed or responded to issues or concerns raised regarding the plan
	<p>directly south of Dakota Tipi First Nation. Dakota Tipi First Nation is seeking Manitoba Hydro's support in being able to obtain/purchase these land areas and additional as may become available in future discussions/consultations. Dakota Tipi First Nation would like to present that these land obtainments would be beneficial for the expansion of the community and for the long-term economic development vision and sustainability for the Nation and future of Dakota Tipi First Nation.”¹⁷</p>	<p>Manitoba Hydro has identified a specific area of Manitoba to direct parcel selections, the Area of Focus shown in Map 2.</p>

Appendix C-8 - C-11 contains feedback provided by provincial and federal agencies

C-8 Feedback provided by Major Projects Management Office, Natural Resources Canada

Issues or concerns provided	How Manitoba Hydro addressed or responded to issues or concerns raised
<p>NRCan notes that the Government of Canada is relying on Manitoba Hydro's compliance with Canada Energy Regulator (CER) Conditions 22 and 26 to accommodate potential impacts to Indigenous groups' Aboriginal and Treaty Rights. As such, NRCan encourages Manitoba Hydro to consider the views raised by Indigenous communities during the engagement activities described in Section 5 of both plans.</p>	<p>Manitoba Hydro will consider the views raised by Indigenous communities during engagement activities. This is demonstrated by showing transparency in the manner in which the plan was developed and adapted over time, and responsiveness to concerns heard.</p> <p>Manitoba Hydro also worked to foster transparency and collaboration between communities by initially working with the MMTP Monitoring Committee.</p>
<p>With respect to the Crown Land Offset Measures Plan, the CER will determine whether Manitoba Hydro has adequately measured and defined the "permanent loss of Crown lands available for traditional use by Indigenous peoples." NRCan expects that lands acquired to comply with CER Condition 22 will be suitable for the exercise of potentially impacted Indigenous groups' Aboriginal and Treaty rights.</p>	<p>A key criterion developed for land acquisition will include: Lands acquired will be suitable for the exercise of potentially impacted Indigenous groups' Aboriginal and Treaty rights.</p>

C-9 Feedback provided by Lands and Economic Development, Indigenous Services Canada / Government of Canada

Issues or concerns provided	How Manitoba Hydro addressed or responded to issues or concerns raised
<p>Include in Table 1 Sec. 4.0 a column on valued ecosystem (specific use of the land in question) so that we can assess the significance of the impact, the appropriateness of the proposed Mitigation and on how to measure 4.0 (d).</p>	<p>A column on valued ecosystem (specific use of the land in question) has been added to the Table provided.</p> <p>Information on where to find mitigation measures and significance determinations for the valued components assessed for the Project were provided.</p>
<p>The following federal departments should receive the documents, Impact Assessment Agency (former CEAA for federal coordination), Transport Canada (nav. waters) Department of Fisheries and Ocean (stream crossing impact on Fish) and Environment and Climatic Change Canada (species at risk).</p>	<p>A final copy of the Crown Land Offset Measures Plan will be sent to each of these federal agencies.</p>
<p>A representative shared that they have reviewed the plan and do not have any concerns with the reviewed approach to Condition 22 - Hydro purchasing fee simple lands which would subsequently become (provincial) crown lands, available for the exercise of Aboriginal and/or Treaty rights. Another representative was in agreement with the comment.</p>	<p>No response.</p>

C-10 Feedback provided by Canadian Wildlife Service, Prairie Region, Environment and Climate Change Canada

Issues or concerns provided	How Manitoba Hydro addressed or responded to issues or concerns raised
<p>I have reviewed both the draft Crown Land Offset Measures Plan and the draft Wetland Offset Measures Plan and have not identified any concerns. I note that the lands will be put in the care of the province of Manitoba for action.</p>	<p>No response.</p>

C-11 Feedback provided by Water Stewardship and Biodiversity Division/Lands Branch

Issues or concerns provided	How Manitoba Hydro addressed or responded to issues or concerns raised
<p>The province agrees that the only way to satisfy the condition to offset Crown land is through the acquisition of alternate lands. The province supports the proposal for Manitoba Hydro to fund the purchase, administration and maintenance of land to be acquired and held by the province or designated agency.</p>	<p>No response</p>

November 28, 2019

Client File No. 5750.00

Licence No. 3288

Ms. Lori Stevenson
Director
Lands Branch
Manitoba Agriculture and Resource Development
Box 20000, 123 Main Street West
Neepawa R0J 1H0

Dear Ms. Stevenson:

RE: Manitoba-Minnesota Transmission Project– Crown Land Offset Measures Plan

Pursuant to Manitoba-Minnesota Transmission Project (MMTP) National Energy Board Certificate of Public Convenience and Necessity EC-059 condition 22, Manitoba Hydro is seeking your feedback on the attached Crown Land Offset Measures Plan.

This plan proposes Manitoba Hydro provide funding to the Province of Manitoba Lands Branch or designated agency for the purchase of land in Manitoba to be designated as new Crown land. Manitoba Hydro is proposing that the land purchase decision be guided by criteria established by the MMTP Monitoring Committee. Manitoba Hydro will also be seeking input from relevant federal authorities, and impacted Indigenous communities.

Please review the attached plan and provide any feedback by January 17, 2020.

For your reference, certificate condition 22 states:

22. Crown land Offset Measures Plan

Manitoba Hydro must file with the Board, for approval, 30 days prior to commencing operations, a Crown Land Offset Measures Plan (the Plan) that outlines how permanent loss of crown lands available for traditional use by Indigenous Peoples resulting from the Project will be offset or compensated for. The Plan must include:

- a) a description of site-specific details and maps showing the locations where Crown land is no longer available for traditional use as a result of Project activities at Dorsey Converter Station and the transmission tower locations, as well as any other locations;*
- b) a list of the offset or compensation measures that will be implemented to address the permanent loss of crown lands identified in a) above;*
- c) an explanation of the expected effectiveness of each offset measure described in b) for each Indigenous community;*
- d) the decision-making criteria for selecting specific offset measures that would be used and under what circumstances;*

- e) a schedule indicating when measures will be implemented and the estimated completion date(s);*
- f) summary of consultation by Manitoba Hydro with any impacted Indigenous communities and with relevant provincial and federal authorities regarding the Plan; and,*
- g) this summary must include a description of any issues or concerns raised regarding the plan by Indigenous communities and how Manitoba Hydro has addressed or responded to them.*

Should you have any questions or wish to discuss, please do not hesitate to contact me at 204-360-3119.

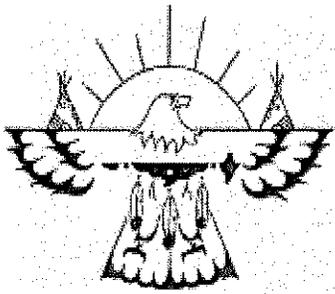
Regards,

Original signed by

James Matthewson
Licensing and Environmental Assessment Department
Manitoba Hydro
360 Portage Ave (5)
Winnipeg, Manitoba
R3C 0G8

Attachment: 1

Animakee Wa Zhing #37's December 11, 2019 Preliminary Comments on the Draft Crown Land and Wetland Offset Measure Plans for the Manitoba-Minnesota Transmission Project (Animakee Wa Zhing #37, 2019)



Animakee Wa Zhing #37

(formerly Northwest Angle #37 First Nation)

Forever The Sun Rises And the River Flows. (Treaty 3, 1873)

December 11, 2019

Sarah Coughlin

Senior Environmental Specialist
Licensing & Environmental Assessment
Transmission, Manitoba Hydro
360 Portage Ave
Winnipeg, MB, R3C 0G8

VIA EMAIL scoughlin@hydro.mb.ca

Dear Ms. Coughlin:

Re: Draft Offset Plans

We are writing regarding Manitoba Hydro's draft offset plans for the Manitoba-Minnesota Transmission Project. In an email dated November 26, 2019, we were notified about Manitoba Hydro's offset plans for Crown land and wetlands. These offset plans are binding conditions mandated by the Canadian Energy Regulator: Condition #22 requires a Crown Land Offset Measures Plan and Condition #26 requires a Wetland Offset Measures Plan.

Included with your email was an attachment described as a "summary and questionnaire of the offsetting plans" that provides a summary of how Manitoba Hydro intends to fulfill Conditions #22 and #26. The summary document advised is that we could contact Manitoba Hydro before January 17, 2020, if we had any questions about the plans.

AWZ's ability to meaningfully assess and provide comments on the draft plans is limited. Manitoba Hydro's engagement plan is not reasonable. First, we do not have the financial or technical resources to meaningfully review the offset plans. We ask that Manitoba Hydro provide us with \$15,000 in preliminary capacity funding so we can retain technical support to support our internal review of these plans and to engage with our membership. Second, both draft offset plans were prepared without baseline data on our First Nation's land use, relationship to and responsibilities to lands and wetlands.

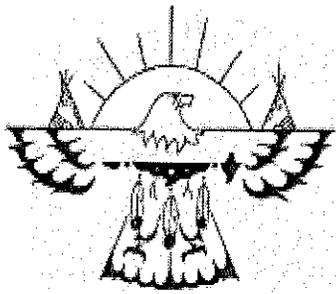
Despite these limitations, and based on a very preliminary review, AWZ has identified some concerns with Manitoba Hydro's offset plans.

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Animakee Wa Zhing #37

(formerly Northwest Angle #37 First Nation)

Forever The Sun Rises And the River Flows. (Treaty 3, 1873)

Regarding the Crown Land Offset Measures Plan: we are concerned the plan does not adequately offset lands available for traditional use by Indigenous peoples. Manitoba Hydro has only included lands under the guyed towers and self-supporting towers to determine how much land it is required to offset. Problematically, Manitoba Hydro has not included the cleared right-of-way in its calculations for determining the total amount of Crown land offsets required.

We are further concerned about the process for offsetting Crown land and our role, if any, in the land selection and land acquisition process once the Manitoba Government receives funds to purchase offset lands.

We have similar concerns about the Wetland Offset Measures Plan as it does not appear to offset all permanent wetlands losses. In particular, it does not set out any measures for restoring wetlands which are lost or harmed by clearing a right of way. Condition 26 of the Canadian Energy Regulator's decision requires Manitoba Hydro to outline how all "permanent loss to wetlands resulting from the Project will be offset". The Canadian Energy Regulator found that "permanent loss may occur accidentally" at locations other than the transmission tower and Dorsey Station.

Second, the Wetlands Offset Measures Plan does not actually set out *any* offset measures for the permanent wetland losses it identifies. Rather, it simply provides that Manitoba Hydro will make a payment to the Manitoba Government for the loss of wetlands. This is inadequate because:

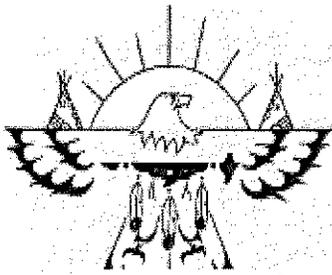
1. **No payment is being made to the First Nation:** Many of transmission towers which are negatively impacting wetlands are within AWZ's traditional territory. In particular, at least a dozen towers creating permanent losses are located in or around Piney, Manitoba. Our First Nation has relied on this area to practice our traditional activities. Further, wetlands are essential for our ongoing ability to exercise our Aboriginal and Treaty rights as they provide habitat for species we look to for sustenance and culture. Moreover, we have stewardship obligations to the land and its inhabitants.
2. **There is no indication that the payment will be used to rehabilitate wetlands:** The Wetland Offset Measures Plan simply states that it will make a payment to the Manitoba Government. There is no plan in place or assurance that the funds will be used to restore the lost wetlands. Moreover, Manitoba Hydro has not explained why making a payment to

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Animakee Wa Zhing #37

(formerly Northwest Angle #37 First Nation)

Forever The Sun Rises And the River Flows. (Treaty 3, 1873)

the Manitoba Government is a more effective way of rehabilitating the wetlands than actually undertaking such work.

3. **Payment cannot be made to the Government of Manitoba:** Under the *Water Rights Act*, payments for the permanent loss of wetlands must be made to the Manitoba Habitat Heritage Corporation, not the Manitoba Government directly.

Our preliminary review of these offset plans has determined that we have significant concerns about the draft offset plans. We strongly encourage Manitoba Hydro to engage with our community in a meaningful way to ensure our concerns are effectively addressed.

Sincerely,
Animakee Wa Zhing #37

Chief Jim Major

Councillor Lorraine Major

Councillor Linda McVicar

Councillor Don Kavanaugh

Councillor Deanna Major

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**Manitoba Metis Federation's February 14, 2020 letter to Manitoba Hydro
(Manitoba Metis Federation, 2020)**



MANITOBA METIS FEDERATION INC.

300 - 150 Henry Avenue, Winnipeg, Manitoba R3B 0J7

Phone: (204) 586-8474 Fax: (204) 947-1816 Website: www.mmf.mb.ca

David Chartrand, LL.D. (Hon)
President

February 14, 2020

VIA E-MAIL

Ms. Jay Grewal
President and CEO
Manitoba Hydro
360 Portage Avenue
Winnipeg, MB R3C 0G8

Dear Ms. Grewal,

Re: MMF's Significant Concerns with Manitoba Hydro's Draft Plans for MMTP Certificate Conditions 22 and 26

On behalf of the Manitoba Metis Federation (the "MMF"), which is the democratically elected self-government representative of the Manitoba Métis Community, I am writing regarding the MMF's significant concerns about Manitoba Hydro's ("Hydro") draft plans for Conditions 22 and 26 (collectively the "Draft Offset Plans") of Certificate EC-059 for the Manitoba Minnesota Transmission Project (the "MMTP"). Hydro's Draft Offset Plans are fundamentally deficient and fatally flawed. As further outlined below, Hydro's Draft Offset Plans do not meet the requirements of Conditions 22 or 26 (collectively the "Conditions") in at least three ways:

1. There has been no consultation with the MMF regarding the Draft Offset Plans, as required by the plain language of the Conditions;
2. Hydro's calculation of the permanent loss of Crown land available for traditional use is incorrect; and
3. Hydro's proposed "measure" to offset permanent loss of Crown land is unenforceable and does not address 3 of the 7 Condition requirements.¹

The MMF has previously raised these concerns through Hydro's MMTP Indigenous Monitoring Committee to no avail. I am therefore following up with you directly to repeat our request for a meaningful consultation process as required by the plain language of the Conditions. I am

¹ While this letter focuses on Condition 22, the MMF has equal concerns with Hydro's draft plan for Condition 26. The language of Conditions 22 and 26 is nearly identical and there is substantial overlap of the MMF's concerns regarding both draft plans. The focus and citations to Condition 22 in this letter should not be taken as minimizing the MMF's concerns with Hydro's approach and draft plan for Condition 26, which contains many of the same fatal flaws in design, approach, and execution.

copying the Canadian Energy Regulator (the “CER” which is the successor to the National Energy Board, or “NEB”) so that it is aware of our concerns with the Draft Offset Plans.

In addition, this letter serves to notify the CER that the MMF has concerns regarding Hydro’s request for relief from the timing of Condition 22. As further outlined below, this Condition (among others) was modified by the federal Crown as part of fulfilling its duty to consult and accommodate regarding the Project. It would be inconsistent with the honour of the Crown and the duty to consult to allow the Project to commence operations without the Crown Land Offset Plan in place.

I am copying this letter to the other Indigenous Interveners in the MMTP NEB hearings. These other Indigenous communities are equally entitled to have the Conditions that represent the Crown’s accommodation of impacts of the MMTP on their s. 35 rights, claims, and interests implemented in a way that is enforceable and that does not defeat the purpose of the promised accommodation. Hydro’s attempt to offload the responsibility for fulfilling these Conditions—and the responsibility for implementing Draft Offset Plans—onto Manitoba is, in effect, robbing Peter to pay Paul. It is the Indigenous communities that will bear the burdens and impacts of the Project on our s. 35 rights. Why should the Crown reap the benefits? Particularly where, as further outlined below, we have no assurances or means to enforce these promises. The remainder of this letter sets out the above concerns in further detail.

1. Hydro Has Not Consulted with the MMF

To date, the MMF has not been engaged in the development of the Draft Offset Plans in any way. Moreover, public notice and pan-Indigenous engagement processes are entirely insufficient to fulfill the plain language of the Conditions² and their broader constitutional purpose.

As the MMF has outlined in previous correspondence,³ Conditions 22 and 26, among others, play a critical role in discharging the Crown’s duty to consult and accommodate for impacts of the Project on Métis rights.⁴ Hydro has ignored the purpose and constitutional significance of these Conditions in discharging the Crown’s duty. Instead of implementing a meaningful consultation process, Hydro is continuing its misguided, pan-Indigenous approach that has been repeatedly recognized as superficial and outdated.⁵

The failure of Hydro’s flawed engagement approach is obvious in the Draft Offset Plans themselves. The Plans do not include “an explanation of the expected effectiveness of each offset

² Condition 22(f): “The Plan must include: . . . a summary of consultation by Manitoba Hydro with any impacted Indigenous communities and with relevant provincial and federal authorities regarding the Plan.”

³ Letter from MMF to CER (5 December 2019) ([C03468-1](#)); letter from MMF to CER (23 October 2019) ([C02373-1](#)); letter from MMF to NEB (5 September 2019) ([C01479-1](#)); letter from MMF to NEB (16 August 2019) ([C01061-1](#)); Letter from MMF to Manitoba Hydro (8 August 2019) ([C00907-1](#)); letter from MMF to NEB (23 July 2019) ([C00653-1](#)).

⁴ Following the conclusion of the NEB hearings for the Project, Canada undertook additional Crown Consultation with Indigenous communities, including the MMF, related to the Project. In response to concerns raised by the MMF, among others, Canada modified five Conditions proposed by the Board—including specifically Conditions 22 and 26—“to fulfill the duty to consult . . . [and] further address impacts to section 35 rights.” Government of Canada, Major Projects Management Office, MMTP, online at: <https://mpmo.gc.ca/measures/308>

⁵ See, for example, the Clean Environment Commission, *Report on Public Hearing: Bipole III Transmission Project* (June 2013), online (PDF): http://www.cccmanitoba.ca/cccm/archive/pubs/commission%20reports/final%20web%20bipole%20iii%20transmission%20project_web1.pdf.

measure described . . . **for each Indigenous community**” as required by the clear language of Conditions.⁶ Canada specifically added the requirement to consider whether the Draft Offset Plans were effective **for each Indigenous community** because accommodating these impacts for each community is what is required to fulfill its duty to consult and accommodate.

In order to meet this requirement, Hydro must consult with each Indigenous community and consider/outline how the Draft Offset Plans address their distinct traditional uses and loss of Crown lands related to the same. For example, a plan that might effectively offset loss of Crown lands for timber harvesting by one Indigenous community does nothing to offset loss of Crown land for gathering aquatic plants or fishing to another Indigenous community. The CER is ultimately charged with ensuring that the Conditions are implemented in a manner that upholds the honour of the Crown, including the duty to consult and accommodate. Hydro’s lack of consultation not only does not meet the plain language of the Conditions, but it also does not provide the CER any information on which to determine that the duty—owed to each Indigenous community—is being fulfilled through the Draft Offset Plans. A robust consultation process with the MMF is required and should begin immediately.

2. Hydro’s Calculation of Permanent Loss of Crown Land is Incorrect

The MMF strongly objects to Hydro’s impoverished and incorrect calculation that only 24.1 hectares of Crown lands available for traditional use by the Manitoba Métis Community will be permanently lost because of the MMTP. It defies logic for Hydro to assume that the CER did not consider Hydro’s own plans and the evidence put forward by Indigenous Interveners in adopting the Condition language and for Hydro to now assert that only the transmission tower footprints constitute “permanent loss.”

The MMF Study—that is on the record before the NEB—outlines the Crown lands that will be converted by the MMTP from unoccupied lands (lands available to harvesting and traditional uses by the Manitoba Métis Community) to occupied lands (lands effectively lost to harvesting and traditional use) are significantly greater than 24.1 hectares.⁷ This evidence was considered by the NEB, and the Crown, in drafting the Conditions. The text of the Conditions on its face acknowledge that the permanent loss of Crown lands is broader than merely the transmission tower footprints.⁸ Moreover, Hydro’s argument that only “very small” amounts of Crown land would be permanently lost was already expressly rejected by the NEB.⁹ In light of this, Hydro’s calculation does not withstand scrutiny and must be revised.

⁶ Condition 22(c), emphasis added.

⁷ Calliou Group and MMF, *Metis Land Use and Occupancy Study: Assessment of Potential Effects Prior to Mitigation* (December 2016) ([A91072-20](#), [A91072-21](#), [A91072-22](#), [A91072-23](#), [A91072-24](#), [A91072-25](#)).

⁸ Condition 22 (a): “The Plan must include: a) a description of site-specific details and maps showing the locations where Crown land is no longer available for traditional use **as a result of Project activities at Dorsey Converter Station** and the transmission tower locations, **as well as any other locations**” (emphasis added).

⁹ The NEB Reasons for Decision on MMTP (November 2018) ([A95736-1](#)) states: “The proponent argued that the loss of Crown land associated with the proposed Project was very small in comparison with the total acreage of land available to the provincial Crown and that the land was still available for traditional use. . . . The Board would find the proponent’s argument more compelling were the Project located in an area of the province in which Crown land is abundant and the loss of Crown land relative to that abundance was small” (page 4).

3. Hydro's Proposed "Offset" Measure is Unenforceable and Does Not Address 3 of the 7 Condition Requirements

The MMF also has significant concerns regarding the unenforceable and unimplementable nature of Hydro's proposed measure to "address the permanent loss of crown lands."¹⁰ Hydro's proposal is to "provid[e] funding to the Province of Manitoba or designated agency for the purchase of offset land in Manitoba."¹¹ While Hydro has stated that in order to meet "the spirit" of the federal condition, its "intention is for the acquired land to be designed by the Province of Manitoba as protected Crown land and for the land to be made available to Indigenous Peoples for traditional use"¹² the MMF—and the CER—have no guarantees that this will be the case. Neither Hydro nor Manitoba have provided any assurances that lands meeting the criteria and needs of each impacted Indigenous community can actually be identified,¹³ will be set aside, or when this will take place. This approach ignores that Hydro must meet the actual terms and requirements of the Condition and not only its "spirit and intent."

Hydro's Draft Offset Plans also do not include any information related to 3 of the 7 mandatory elements required by the Conditions:

- "an explanation of the expected effectiveness of each offset measure";
- "the decision making criteria for selecting specific offset measures that would be used and under what circumstances"; and
- "a schedule indicating when measures will be implemented and the estimated completion date(s)."¹⁴

Indeed, Hydro cannot include this information because despite its "intent," Hydro, as a Crown Corporation, cannot bind the Crown.

In fact, the MMF's experience has demonstrated that if anything, Manitoba is willing to take unprecedented—and illegal—action to prevent even legally-binding accommodation agreements that Hydro reaches with an Indigenous community from being fulfilled.¹⁵ All of the Indigenous communities impacted by MMTP and with a stake in the honourable implementation of these Conditions and Draft Offset Plans should be concerned with any proposals that hinge on Manitoba honouring its promises or Hydro's commitments.

¹⁰ Condition 22(b): "The Plan must include: . . . b) a list of the offset of compensation measures that will be implemented to address the permanent loss of crown lands identified in a) above."

¹¹ Manitoba Hydro, MMTP Draft Crown Land Offset Measures Plan (November 2019), section 4.4, online (PDF): https://www.hydro.mb.ca/projects/mb_mn_transmission/pdfs/crown_land_offset_measures_plan_draft.pdf.

¹² Manitoba Hydro, MMTP Draft Crown Land Offset Measures Plan, November 2019, section 4.4.

¹³ The MMF is significantly concerned that Hydro's proposed plan ignores the findings of the NEB that: "the Project is located in an area of the province in which Crown land of the type and quality sufficient to be considered in future negotiations is in relatively short supply" (NEB Reasons for Decision on MMTP, page 4). This was said specifically in response to the MMF's concerns regarding future negotiations with Canada about land.

¹⁴ Condition 22 (c), (d), (e).

¹⁵ *Manitoba Metis Federation v Brian Pallister, Premier of Manitoba, Cliff Cullen, Minister of Crown Services, The Executive Council for the Government of Manitoba, the Government of Manitoba, the Manitoba Hydro-Electric Board* (MBQB Court File No. CI18-01-14927).

Proposed Way Forward

The MMF repeats its request for a meaningful process of consultation with Hydro regarding the Draft Offset Plans.¹⁶ Given the significance of our concerns and the constitutional importance of these Conditions for discharging the Crown's duty to consult and accommodate owing to the Manitoba Métis Community, one meeting will clearly not be sufficient. A robust consultation process is required, including sufficient capacity for the MMF to participate in meetings with Hydro and engage experts and other advisors to assist us in reviewing and providing comments on the Draft Offset Plans.¹⁷ This should begin immediately. In light of the Conditions clear timing requirements it would not be in Hydro, or the MMF's, interests for Hydro to delay beginning a meaningful consultation process until the eleventh hour.

As previously expressed, the MMF will be engaging in any consultation process on the basis that the MMF already has a negotiated and legally binding accommodation agreement with Hydro (the July 2017 Agreement). Honouring the July 2017 Agreement is a commitment in the MMTP license.¹⁸ The MMF is confident that Hydro will someday have to honour the bargain made with MMF in July 2017. With that said, the MMF recognizes that it has an obligation to mitigate adverse effects and impacts, so we will be engaging in the development of the Draft Offset Plans towards that end.¹⁹

We hope to hear from you as soon as possible. Please have your staff be in touch with Marci Riel, MMF Senior Director of Energy and Infrastructure, at 204 586 8474 ext. 263 or via email to marci.riel@mmf.mb.ca, to discuss putting in place a meaningful consultation process regarding the Draft Offset Plans and the MMF's concerns.

Meeqwetch,



David Chartrand, LL.D. (hons), O.M.

cc MMF Cabinet
Marci Riel, MMF Senior Director of Energy and Infrastructure
Sebastian Labelle, Director General, Natural Resources Canada
L. George, Secretary of the Commission, Canadian Energy Regulator
List of MMTP Indigenous Interveners

¹⁶ Email from Marci Riel, MMF Energy and Infrastructure Director to Sarah Coughlin, Manitoba Hydro re MMTP Draft Offset Plans (17 December 2019).

¹⁷ As you are aware, Manitoba has unlawfully terminated the Turning the Page Agreement ("TPA") and Hydro has subsequently ceased to make any payments for the Hydro Liaison Officer position that was included in the TPA. Hydro cannot expect the MMF to self-fund work that is a licencing requirement of its Certificate.

¹⁸ Letter from MMF to CER (5 December 2019) ([C03468-1](#)); letter from MMF to CER (23 October 2019) ([C02373-1](#)); letter from MMF to NEB (5 September 2019) ([C01479-1](#)); letter from MMF to NEB (16 August 2019) ([C01061-1](#)); Letter from MMF to Manitoba Hydro (8 August 2019) ([C00907-1](#)); letter from MMF to NEB (23 July 2019) ([C00653-1](#))

¹⁹ The MMF recognizes that should a "compensation measure" of the final Conditions 22 and 26 offset plans include financial compensation to the MMF on behalf of the Manitoba Métis Community that, upon payment, any amounts coming to the MMF from this plan would be deducted from the roughly \$67.5M owing to the MMF based on the July 2017 Agreement.

**Manitoba Agriculture and Resource Development's March 5, 2020 letter to
Manitoba Hydro**



Agriculture and Resource Development

Water Stewardship and Biodiversity Division/Lands Branch
Box 20000, 123 Main Street West
Neepawa, Manitoba, Canada R0J 1H0
T 204-476-0053 F 204-476-7539
email: Lori.Stevenson@gov.mb.ca

March 5, 2020

Mr. James Matthewson
Licensing and Environmental Assessment Department
Manitoba Hydro
5 – 360 Portage Avenue
Winnipeg, Manitoba
R3C 0G8

Dear Mr. Matthewson:

Thank you for your letter of November 28, 2019 requesting Manitoba's feedback on proposed Manitoba-Minnesota Transmission Project – Crown Land Offset Measures Plan pursuant to Condition 22 of the National Energy Board's ("NEB") Certificate of Public Convenience and Necessity EC-059 (received June 18th, 2019).

It is important to recognize that the condition set out by the federal regulator is considered by the province to only have relevance to the Manitoba-Minnesota Transmission Project (MMTP). However, in this case the province agrees that the only way to satisfy the condition to offset Crown land is through the acquisition of alternate lands.

In this regard, the province supports the proposal by Manitoba Hydro in terms of the estimated 24.1 hectares of permanently lost Crown land and a total of \$323,000 to cover purchase, administration and maintenance of land to be acquired and held by the province or designated agency.

The acquisition of land will be guided by weighted criteria that the province will receive from the MMTP Monitoring Committee to ensure that the land acquired contains values important to Indigenous communities. In absence of weighted criteria, the province will determine land use values comparable to the nature of the lands permanently taken up by the project.

Once acquired, the land will be protected through the registration of conservation caveats or permanent land use designations that allow for the continued traditional use by Indigenous people. The province can make no predictions as to the length of time it may require to acquire suitable land. Pending notification of acceptance of the plan by the federal regulator the province will require some time to establish the necessary administrative mechanisms to allow for implementation.

Yours Sincerely,

Lori L. Stevenson
Director

cc: Amy Stevenson

**Manitoba Hydro's March 11th letter to the Manitoba Metis Federation
(Manitoba Hydro, 2020)**

2020 03 11

David Chartrand
President
Manitoba Metis Federation Inc.
300 - 150 Henry Avenue
Winnipeg MB R3B 0J7

Dear President Chartrand:

RE: MMTP CERTIFICATE CONDITIONS 22 AND 26

Thank you for your letter of February 14, 2020 providing comments on Manitoba Hydro's draft plans for Conditions 22 and 26 of CER Certificate EC-059 (the "Draft Plans") and its consultations with respect to the Draft Plans.

Manitoba Hydro (MH) respectfully disagrees with the Manitoba Metis Federation's (MMF's) view that MH has not consulted with the MMF regarding the Draft Plans. MH continues to engage with Indigenous communities regarding Manitoba Minnesota Transmission Project (MMTP) using the processes that were outlined before the former National Energy Board ("Board") in the MMTP proceeding. The Board concluded that MH's engagement processes were appropriate and noted that it was encouraged by the creation of an MMTP Monitoring Committee.¹ These processes include not only what you have referenced as a "pan-Indigenous" approach (through the MMTP Monitoring Committee) but engagement at the individual community level as well. MH also offers capacity funding for its engagement processes. However, as MH has previously indicated to the MMF, in accordance with MH's policies, before funding can be provided to a community, a scope of activities and budget must be submitted to support the request. MH again invites the MMF to submit this documentation as MH does wish to hear from the MMF about the Draft Plans. If you wish more details on the funding available, please contact Sarah Coughlin at (204)360-3016.

Regarding the content of the Draft Plans, MH wishes to note that Condition 22 requiring the creation of a Crown Land Offset Measures Plan is the first Canadian regulatory condition of this kind. With no precedents to guide this undertaking, the creation of a Draft Plan has been challenging. MH is open to receiving suggestions for revising its Draft Plan, including its method for calculating permanent loss of Crown lands available for traditional use by Indigenous Peoples resulting from the Project. The comments provided in your letter will be

¹ [A95736-1](#) NEB-Reasons for Decision Manitoba Hydro EH-001-2017, November 2018, p.82.

David Chartrand

2020 03 10

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considered when revising the Draft Plan. Feedback is also welcomed on the Draft Plan for Condition 26 regarding offsetting the permanent loss of wetlands. Our plans are indeed drafts and we look forward to receiving further feedback to inform updated versions of each plan.

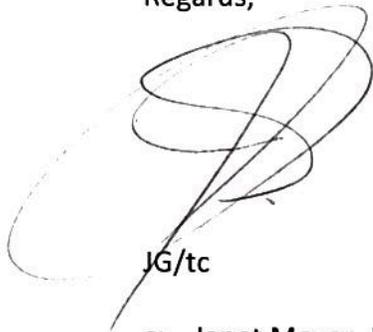
MH also understands the MMF's concerns regarding assurances that lands will indeed be protected for traditional use by Indigenous Peoples. While it may not have been evident from the wording of the Draft Plan, MH's intention is to develop a plan that is legally enforceable. We are updating our Draft Plan to include a more thorough description of the land securement process. There are many options for offsetting and various viewpoints across all 21 Indigenous communities with whom MH is engaging regarding the Project. We appreciate any feedback the MMF wants to provide regarding their perspective.

With respect to the MMF's contentions regarding the July 2017 draft document, MH's position that the document is not a legally enforceable agreement has been made clear to the MMF and the Board on a number of occasions and there is nothing served by reiterating a dispute that is currently before the courts.

MH has been and remains willing to provide funds to the MMF to review the Draft Plans. I have asked the appropriate staff to continue to reach out to Marci Riel to discuss engagement regarding the Draft Plans and the MMF's concerns. We hope the MMF will engage with MH on these plans.

Thank you again for sharing your perspectives and concerns with me.

Regards,

A handwritten signature in black ink, appearing to be 'JG/tc', written over a light blue circular stamp or watermark.

c: Janet Mayor, Legal Counsel, Manitoba Hydro
Marci Riel, Senior Director of Energy and Infrastructure, Manitoba Metis Federation Inc.
Sebastien Labelle, Director General, Natural Resources Canada
L. George, Secretary of the Commission, Canadian Energy Regulator
List of MMTP Indigenous Interveners

**Manitoba Hydro's March 16th email to the Manitoba Metis Federation
(Manitoba Hydro, 2020)**

From: [Coughlin, Sarah](#)
To: [Marci Riel](#)
Subject: RE: MMTP Draft Offset Plans
Date: March 16, 2020 1:29:00 PM
Attachments: [2020 03 11 Letter J Grewal to President D Chartrand RE MMTP Certificate Conditions 22 and 26.pdf](#)
[image001.png](#)

Hi Marci,

Further to the letter Manitoba Hydro sent a letter to President Chartrand on March 11, 2020 (see attached), I'd like to follow up regarding the MMF's request for funding to support a review of the draft plans for Conditions 22 and 26.

As I noted in my email to you on December 19, 2019, Manitoba Hydro is generally supportive of proposals that include engagement of community members; however, we require a breakdown of budget details such as:

- An estimate of Honorariums for the individuals who attend the meeting. We will require receipts acknowledging their payment.
- Travel – mileage is reimbursed at a rate of \$0.50 per km for each vehicle utilized. Reimbursement rate is per vehicle and not per person.
- Food costs (for example, lunch may be reimbursed at a rate of up to \$18.15 per person)
- Meeting Room/Facility Costs – will be reimbursed as per the proposal with itemized invoice provided
- Legal/consultant costs – please provide an estimate of number of hours per task and rate per hour.

If you can send me the workplan/budget that the MMF is proposing for its review of the draft plans for Conditions 22 and 26, we will review as quickly as possible and get back to the MMF with any questions or concerns.

Thank you and please don't hesitate to contact me with any questions.

Sarah Coughlin
Senior Environmental Specialist
Licensing & Environmental Assessment
Transmission, Manitoba Hydro
360 Portage Ave, Winnipeg, MB
w (204) 360-3016
c (204) 918-9848
scoughlin@hydro.mb.ca

From: Coughlin, Sarah
Sent: Thursday, December 19, 2019 9:50 AM

To: 'Marci Riel' <marci.riel@mmf.mb.ca>

Cc: Al Benoit <abenoit@mmf.mb.ca>; Jasmine Langhan <jasmine.langhan@mmf.mb.ca>

Subject: RE: MMTP Draft Offset Plans

Thank you for your response Marci.

Manitoba Hydro is working to fulfill Conditions 22 and 26 as required by NEB Certificate EC-059 for the Manitoba-Minnesota Transmission Project (MMTP). Manitoba Hydro developed draft plans for meeting these conditions and circulated those drafts in an email sent November 26th, 2019 to the MMF, as well as others, asking for review and comments. In your December 17, 2019 emailed response, you already expressed a general reservation that the draft plan is not what the MMTP license commitment requires. Manitoba Hydro would like to understand your concerns more specifically and in greater detail. If possible, receiving written feedback, including details regarding your current reservations on both draft plans by January 17, 2020 would be very helpful. However, if more time is required, please let us know.

At the December 16, 2019 MMTP Monitoring meeting, which the MMF attended, Manitoba Hydro offered to meet with leadership of each of the Nations involved, including the MMF, to discuss and receive feedback on the draft plans. We also indicated that Manitoba Hydro is supportive of a meeting in the community, hopefully with member participation. To facilitate review of the draft plans, Manitoba Hydro offered to provide an honorarium to those individuals who are reviewing and providing feedback on the drafts on behalf of their communities.

If there was any doubt, Manitoba Hydro confirms its intention that the above offer extends to the MMF. We are hopeful such a meeting can be arranged.

In your December 17, 2019 response you indicated that the MMF would need to engage external consultants in its review of the draft plans and in developing a mutually agreeable engagement process. You also indicated that: you would need to involve legal counsel in your discussions with Manitoba Hydro; that the MMF would require funds for this work; and that the MMF wishes to scope out “a mutually agreeable process and budget for engagement on the draft plan”.

Manitoba Hydro is unclear on the scope of this proposed work and what the role of external consultants and legal representatives would be. Prior to engaging in a phone call, it would be helpful if the MMF could provide further detail outlining the scope of the activities the MMF is proposing and provide a detailed budget for the proposed work. This will assist us to understand the activities the MMF wishes to undertake in reviewing and providing feedback on the draft plans and allow Manitoba Hydro to provide timely feedback.

We note in your email that you raised other issues that we feel we should respond to.

- The request we have made for your review and comment on the draft plans relates to fulfilling MMTP Certificate conditions. It is unrelated to the 2017 Major Agreed Points document in any way.
- Manitoba Hydro’s position, that the 2017 Major Agreed Points document is a without

prejudice, non-binding proposal, remains unchanged. Contrary to your suggestion, the 2017 Major Agreed Points document is not a legally binding accommodation agreement and the MMF should not proceed on the basis that the Major Agreed Points document has any binding force or effect.

Thank you for the notification of the letter planned for the NEB. We request a copy of the letter when available.

Sarah

Sarah Coughlin

Senior Environmental Specialist
Licensing & Environmental Assessment

Transmission, Manitoba Hydro

360 Portage Ave, Winnipeg, MB
w (204) 360-3016
c (204) 918-9848
scoughlin@hydro.mb.ca

From: Marci Riel <marci.riel@mmf.mb.ca>
Sent: Tuesday, December 17, 2019 12:59 PM
To: Coughlin, Sarah <scoughlin@hydro.mb.ca>
Cc: Al Benoit <abenoit@mmf.mb.ca>; Jasmine Langhan <jasmine.langhan@mmf.mb.ca>
Subject: MMTP Draft Offset Plans

BE CAUTIOUS WITH THIS EMAIL: This message originated outside Manitoba Hydro. Verify all links and attachments from unknown senders before opening. Search 'email security' on mpower for details.

Sarah,

The MMF has significant concerns about the draft plan. As you know, the MMF has not been engaged in the development of this plan in any way whatsoever. Moreover, the plan, as drafted, does not take into account the MMF's unique land use issues as documented in our study or the significance of these lands to the Manitoba Métis Community, within the heart of the Métis Nation's Homeland. It is far from what the MMTP license commitment requires.

We are currently reviewing the plan, and, are engaging external consultants in this review. A first step for us will be developing a mutually agreeable engagement process on the plan with Hydro, including financial supports to the MMF to allow for meaningful engagement. As you know, Manitoba has unlawfully cancelled the Turning the Page Agreement (TPA), so the MMF no longer has a Hydro Liaison Officer position. Hydro cannot expect the MMF to self-fund this work, which is a requirement of its MMTP license. Hydro has no meaningful or supported relationship with the MMF

at this time to even engage on this plan and has provided no financial support to the MMF to undertake a review of this draft plan in a meaningful way.

Moreover, one mere meeting will not be sufficient given the significance of this plan to accommodating Aboriginal rights and interests in relation to the MMTP. Hydro has a long and well-documented history of inadequate and superficial engagement of Aboriginal communities (i.e., the final report of the Clean Environment Commission on Bipole III, the NEB's review of the MMTP project). We hope this will not be yet another one of those hollow and meaningless processes. We will be providing this email to the National Energy Board (NEB) because we are concerned Hydro will simply file its plan without any serious or meaningful engagement of impacted Aboriginal communities, including the MMF.

We should first schedule a call to scope out a mutually agreeable process and budget for engagement on the draft plan. We are available to have a call this week to discuss a workplan and budget. The call will include MMF staff as well as legal counsel. We expect that Hydro will cover the costs associated with this initial call. We should then look to scheduling a face to face meeting in the new year when the MMF offices re-opens.

Finally, the MMF is will be engaging in the process on the basis that the MMF already has a negotiated and legal binding accommodation agreement with Hydro (the July 2017 Agreement). Honouring the July 2017 Agreement is a commitment in the MMTP license. The MMF is confident that Hydro will someday have to honour the bargain made with MMF in July 2017, whether that be by virtue of Hydro acting honourably, the NEB and/or Canada holding Hydro to account or the courts upholding the MMTP's licence commitments and/or the July 2017 Agreement. As you know, issues with respect to the MMF-Hydro July 2017 Agreement are currently before the courts based on Manitoba's unlawful and unconstitutional March 21, 2018 Directive.

With that said, the MMF recognizes that it has an obligation to mitigate, so we will be engaging in the development of the plan, recognizing that any amounts coming to the MMF from this plan would be deducted from the roughly \$67.5M owing to the MMF based on the July 2017 Agreement.

We look forward to hearing from you.

Marci Riel



Marci Riel
Director, Energy and Infrastructure
Manitoba Metis Federation
(O) 204 586 8474 ext 263
(C) 204 619 1228
(E) marci.riel@mmf.mb.ca

Sagkeeng First Nation's April 22, 2020 Preliminary Comments on the Draft Crown Land and Wetland Offset Measure Plans for the Manitoba-Minnesota Transmission Project (Sagkeeng Anicinabe First Nation with Firelight Research Inc., 2020)



Sagkeeng Anicinabe

TECHNICAL MEMORANDUM

Sagkeeng First Nation Preliminary Comments on the Draft Crown Land and Wetland Offset Measure Plans for the Manitoba-Minnesota Transmission Project

Prepared By: Sagkeeng Anicinabe First Nation with Firelight Research Inc.

Submitted To: Sarah Coughlin, Senior Environmental Specialist, Manitoba Hydro

Date: April 22, 2020

Dear Sarah Coughlin,

Please find enclosed Sagkeeng Anicinabe First Nation's (Sagkeeng) initial round of comments on the *Draft Crown Land Offset Plan* (Manitoba Hydro 2019a) and the *Draft Wetland Offset Measures Plan and Draft No Net Loss of Wetlands Plan* (Manitoba Hydro 2019b) prepared for the Manitoba-Minnesota Transmission Project (MMTP).

These documents have been prepared by Manitoba Hydro to fulfill the requirements of Condition 22 and Condition 26 of the Certificate of Public Convenience and Necessity EC-059.

Sagkeeng's preliminary concerns with the draft Crown land and wetland offset plans are:

- 1. Lack of Indigenous engagement and participation:** Sagkeeng has concerns that Indigenous consultation to date has been insufficient for our meaningful engagement in the identification of residual project effects and the development of appropriate offset measures. As stewards of our lands and waters, Sagkeeng requests that we are engaged in key aspects of the offset plans, including the completion of a rigorous and comprehensive Traditional Land and Resource Use study within the Project area, as well as collaborative selection of appropriate offsetting locations, measures and quantum.

2. Underestimation of residual project effects leading to inadequate offsetting area calculation:

Sagkeeng has substantial concerns that the offsetting area as calculated will be insufficient to account for long-term impacts to Crown land use and wetland function as a result of the transmission line and maintenance of the new transmission line corridor, including associated impacts to Indigenous rights and interests. This concern arises primarily from an underestimation of residual project effects and the exclusion of indirect and cumulative project effects from offset value calculations. As a result of Manitoba Hydro's minimization of such effects, we have determined that the draft plans have severely underestimated the amount of offset Crown Land and wetlands required. By Sagkeeng's calculation, 457.7 hectares of wetland, and 550 hectares of Crown land (increases of 140,299% and 2,182% respectively) must be offset to meet minimum requirements. Furthermore, the offsetting ratios in the draft Crown land and wetland offset plans are inadequate to support a no net loss objective.

3. Inappropriate offset measures: From Sagkeeng's perspective, a monetary payment to the Province of Manitoba, or a designated agency, is not an appropriate offset measure. This approach does not support Indigenous engagement and participation, nor does it provide Sagkeeng with assurances that offsetting funds will be properly used to maintain, restore or compensate for Sagkeeng rights and interests impacted by the permanent loss of Crown lands and wetland habitat in our traditional and ancestral territories.

Overall, the draft Crown land and wetland offset plans lack critical details that are required for Sagkeeng's future consideration, such as the identification of offsetting locations and methods, and detailed plans to support the meaningful engagement and participation of Indigenous nations. Furthermore, in the absence of a monitoring regime and adaptive management approach, Sagkeeng cannot be confident that the offsetting measures will in fact produce the desired ecological and cultural outcomes.

Recommended measures described in the enclosed memo are critical to filling existing gaps in MMTP offset measure planning and implementation. It is Sagkeeng's expectation that these recommended measures will be adopted by Manitoba Hydro. Where Manitoba Hydro is considering not adopting

any of these measures, Sagkeeng requires written justification from Manitoba Hydro and additional direct consultation toward an appropriate solution. Sagkeeng expects further engagement with Manitoba Hydro on the development of a fulsome approach to mitigating and offsetting the permanent loss of these culturally and ecologically important areas within our territory, including the implementation of a strong monitoring and adaptive management approach that integrates considerations of our values associated with these areas. As previously indicated by Sagkeeng, the current approach taken by Manitoba Hydro is insufficient and disrespectful.

Sagkeeng recognizes that the draft Crown land and wetland offset plans are a work in progress and reserves the right to identify additional information requirements as the plans are developed and finalized. Further discussions between potentially impacted Indigenous nations (including Sagkeeng), Manitoba Hydro, and provincial government representatives are required on this important matter. We look forward to Manitoba Hydro contacting us to engage in these critical conversations.

Meegwetch,

Chief Derrick Henderson

Sagkeeng Anicinabe Government

CC: Louise George, Secretary of the Canada Energy Regulator

Attachment: Sagkeeng Preliminary Comments on the Crown Land and Wetland Offset Measure Plans for MMTP

PRELIMINARY COMMENTS ON THE CROWN LAND AND WETLAND OFFSET MEASURE PLANS FOR MMTP

SAGKEENG ANICINABE FIRST NATION

APRIL 22, 2020

SAGKEENG TERRITORY AND THE MMTP

Sagkeeng Anicinabe First Nation (Sagkeeng) is a signatory to Treaty #1. The lands and waterways in Sagkeeng's traditional and ancestral territories have been a part of our members' way of life and economic wellbeing since time immemorial. Sagkeeng territory is intersected by the proposed Manitoba to Minnesota Transmission Project (MMTP), including the creation of a new Right of Way (ROW) from south of Anola to the Manitoba-Minnesota border.

Thirty-seven kilometers of the new transmission line corridor are located on Crown lands (Manitoba Hydro 2015b). Crown lands are effectively the only lands left for Sagkeeng to practice traditional harvesting, given the widespread alienation from the land base by privatization, industrialization and other land fragmentation factors (Sagkeeng First Nation 2018). The transmission line corridor also overlaps with 457.7 hectares of wetland habitat. Aquatic environments including wetlands are important to the culture of Sagkeeng Anicinabe and their ability to fulfil the ideals of Anicinabe Pimatziwin, loosely translated as "Anicinabe life" (Olson, Firelight Research Inc., and Sagkeeng Anicinabe 2019).

Previous studies unrelated to MMTP emphasize the connection between Sagkeeng identity and continued practice of land-based activities such as fishing, hunting, rice picking, berry picking, medicine gathering, and trapping. Crown lands and wetlands are integral to supporting these cultural practices. Many of the animals harvested by Sagkeeng members, including moose and various furbearers, utilize aquatic or wetland environments. Additionally, wetlands are identified as important to the collection of a range of medicinal plants (Olson, Firelight Research Inc., and Sagkeeng Anicinabe 2019). It is apparent from past data collected with Sagkeeng Anicinabe that the community uses and continues to value Crown land and wetland environments across their traditional and ancestral territories. This highlights the importance of conducting further research on particular project-specific impacts in order to fully understand the potential effects of the proposed Project on Sagkeeng use, culture and rights within the project area.

Treaty 1 rights potentially impacted by MMTP include but are not limited to hunting, fishing, and gathering for sustenance and livelihood purposes (Sagkeeng First Nation 2018). Direct and indirect impacts associated with the Project on these rights will come from reduction in available land that support meaningful Treaty rights practices, loss of habitat for wildlife and food and medicinal plants, alienation due to visual and other sensory alterations of the ROW, and concerns about contamination, among other factors (Sagkeeng First Nation 2018; Firelight Research Inc. 20).

PRELIMINARY CONCERNS

1. *Lack of Indigenous engagement and participation*

Offsetting occurs within a social context and must take into account existing treaty rights and rights of traditional use (Poulton 2018). Without proper consultation, offsetting will fail to adequately identify and compensate for impacts to Sagkeeng rights and interests, and changes in conditions caused by offsetting may even contribute to further socio-cultural disruption or inequities.

Sagkeeng engagement and participation to date has been limited by multiple factors, including but not limited to the unwillingness of Manitoba Hydro to work with Sagkeeng to undertake a full and proper assessment of potential interactions of the Project's preferred route with Sagkeeng traditional use, occupancy, culture and rights (Sagkeeng First Nation 2018). Sagkeeng has made it clear that Sagkeeng's early scoping stage traditional knowledge paper, *O-Pimatiziwin 2*, represents only a preliminary traditional knowledge scoping study (Sagkeeng First Nation 2018, 2015). Without a full Traditional Land and Resource Use study, it is not possible to complete an informed estimation of residual adverse effects, including impacts to Sagkeeng rights and interests associated with the loss of Crown lands and wetland habitat.

As signatories to Treaty #1, Sagkeeng community members have constitutionally-protected rights, including to the stewardship of our traditional and ancestral territories. Further, the cultural practices and ecological knowledge of Sagkeeng community members offer critically important insights to the offset process, a fact about Indigenous knowledge recognized in other jurisdictions (Poulton 2018).

The draft MMTP Crown land and wetland offset plans, however, do not include evidence of, nor provisions for, meaningful Indigenous engagement and participation in this process. Sagkeeng has concerns that our Indigenous knowledge, perspectives, and priorities related to Crown land and wetlands will not be meaningfully reflected in the development of the offset plans and the selection of criteria for offsetting locations.

Recommended measures:

1. Manitoba Hydro to work with Sagkeeng to provide the time and resources necessary to conduct a comprehensive Traditional Land and Resource Use Study for the Project-affected area, with appropriate methodology and confidentiality agreements.
2. Manitoba Hydro to revise the governance structure for the Crown land and wetland offset plans to include for meaningful Sagkeeng engagement and participation.
3. Manitoba Hydro to work with Sagkeeng to develop a collaborative approach to identify criteria for selecting offsetting measures and locations based on Indigenous knowledge, perspectives, and priorities.
4. Manitoba Hydro to employ Sagkeeng cultural experts, knowledge holders, and Guardians in the project team to identify and protect cultural resources and values encountered during construction, rehabilitation, and offsetting.

2. *Underestimation of residual project effects leading to inadequate offsetting area calculation*
 - a) *Underestimation of residual project effects*

The MMTP Crown land and wetland offset plans severely underestimate the area of loss of use and reduced wetland function associated with residual project effects. These offset plans assume that Crown land use and wetland function will continue, un-impacted, beyond the immediate footprint of each tower foundation and converter station (Manitoba Hydro 2019a, 2019b). The resulting calculation fails to capture long-term impacts to Crown land use and wetland function as a result of the overhead transmission line and maintenance of the new ROW.

In addition, any portion of the Project that crosses Crown lands inevitably contributes to (already significant) land alienation experienced by Sagkeeng community members, reducing the area of viable territory within which to practice their Treaty rights (Sagkeeng First Nation 2018). Sagkeeng community members who harvest medicines and other plants, for example, advise that they will not harvest from under a transmission line as plants under a transmission line are “considered unhealthy because of the EMF created by the transmission lines and because chemicals are used to keep the right of way clear” (Sagkeeng First Nation 2015, p. 14).

Furthermore, clearing and maintenance of the ROW represents long-term alteration of important forested habitat, where Sagkeeng community members hunt and trap (Sagkeeng First Nation 2015). Linear features have well-documented effects on culturally important species, such as moose, including increased hunting and predation pressure (GOABC 2016; Beazley et al. 2004; Davis 2012). Transmission line construction and clearing also have long-term effects on wetland habitat, with some bog wetlands failing to recover after as much as ten years after construction (Nickerson, Dobbertein, and Jarman 1989). Physical disturbances, including linear features, can impact wetland plant diversity and composition through hydrologic regime change and altered soil conditions (Ficken, Cobbaert, and Rooney 2019). Changes in water movement around physical infrastructure, for example, could make other areas of the wetland more susceptible to drying. ROW maintenance can also lead to the formation of different wetland plant associations (Thibodeau and Nickerson 1986), with potential adverse implications for Sagkeeng harvesting practices and food security.

Recommended measures:

5. Sagkeeng requests that Manitoba Hydro makes appropriate changes to the Crown land and wetland offset plans to account for residual effects of the transmission line corridor, including overhead transmission lines and maintenance of the ROW. This calculation should include, at a minimum:

- 457.7 hectares of wetland habitat, representing the area of physical disturbance associated with Project construction, operation, and maintenance that overlaps with sensitive wetland habitat (Manitoba Hydro 2019b, p.10-46);¹ and
- 550 hectares of Crown land, representing 55 km of transmission line (18 km within existing ROWs and 37 km of new ROW) with a corridor width of 100 m.²

b) *Insufficient Offsetting Ratio*

Appropriate offsetting requires a framework to draw equivalency between the ecological and cultural features lost to development and those gained from offset activities. As described by Poulton (2018), this includes considerations of kind, proximity, condition, and quantity. Such a framework is lacking from the MMTP Crown land and wetland offset plans, for which offset areas and values have not even been identified.

Offsetting ratios applied in the MMTP Crown land (1:1) and wetland (3:1) offset plans are not sufficient to compensate for uncertainty in offsetting equivalency or success. This is particularly concerning given the high degree of cumulative effects in Sagkeeng territory. As acknowledged by Manitoba Hydro (Manitoba Hydro 2015c, 2015a, 2015d), and written evidence submitted by Sagkeeng (Sagkeeng First Nation 2018), there has been extensive land privatization, fragmentation and industrial development within the Regional Assessment Area and broader Treaty 1 area.

Clearing and maintenance of the new transmission line corridor will traverse core patches of remaining intact natural habitat, ranging from 200 to 12,000 hectares in size (Manitoba Hydro 2015a, p. 9-47). Linear features, such as transmission lines, have a disproportionately large and persistent fragmentation impact, given their higher edge to area ratios (Ficken, Cobbaert, and Rooney 2019). It is unclear if or how the fragmentation of these critically important habitats within Crown land and wetlands will be considered in the calculation and selection of offsetting areas. Given the highly damaged nature of the Regional Assessment Area, it is not appropriate to allow further clearing of intact habitat without equivalent compensatory offsets to support the restoration of associated ecological and cultural values.

In the absence of a strategic approach for restoring habitat at this time, Sagkeeng requests that the Manitoba Hydro offset new projects at rates that begin to address the legacy footprint. Scientific best practice dictates the need for offsetting with a multiplier for addressing both project and cumulative effects. Scientific studies indicate that vegetation restoration offsets should be at a ratio of at least 4:1, and often much higher (Laitila, Moilanen, and Pouzols 2014).

Recommended measures:

¹ This represents 199.7% difference (or 140,299% increase) compared to the 0.326 hectares of permanent wetland loss identified by Manitoba Hydro (Manitoba Hydro 2019b, p. 7)

² This represents a 183.2% difference (or 2,182% increase) compared to the 24.1 hectares of permanent Crown land loss identified by Manitoba hydro (Manitoba Hydro 2019a, p. 11)

6. Manitoba Hydro to work with Sagkeeng to develop a framework for assessing ecological and cultural components that integrates Indigenous knowledge, science, and the values identified by Sagkeeng community members.
7. Manitoba Hydro to apply a minimum offsetting ratio of at least 4:1 for Crown lands and wetland habitat, where offsets are of similar ecological and cultural function to the values lost to development.
8. Manitoba Hydro to identify and share for review and comment with Sagkeeng, higher offsetting ratios for locations where equivalency is low and/or uncertainty is high.

3. *Inappropriate offset measures*

From Sagkeeng's perspective, a monetary payment to the Province of Manitoba, or a designated agency, is inappropriate and offensive as an offset measure. This approach does not support Indigenous engagement and participation, nor does it provide Sagkeeng with confidence that the expenditure of offsetting funds will maintain, restore or compensate for Sagkeeng rights and interests impacted by the permanent loss of Crown lands and wetland habitat.

Furthermore, offsetting measures described in the Crown land and wetland offset plans lack key details pertaining to governance, management, and future monitoring. It is important that the governance structure and legal authority of the governance body responsible for implementing offsetting is clearly established (Poulton 2018). This governance structure should include a central role for Sagkeeng.

If Sagkeeng is to be confident that offset measures will in fact produce the desired ecological and cultural outcomes, a monitoring regime will also be necessary. In the case of the Nova Gas boreal caribou habitat offsets, for example, the National Energy Board has required annual monitoring and reporting on vegetation regrowth and species use of restored areas for a period of fifteen years (NGTL 2016). Monitoring must include indicators and adaptive management responses that reflect Sagkeeng values and perspectives, and a role for Sagkeeng Guardians.

Recommended measures:

9. Manitoba Hydro to provide Sagkeeng the time and resources necessary to collaboratively develop an offset plan that supports the retention and regaining of ecological and cultural function resembling that of Crown land and wetland habitat permanently impacted by the Project. Sagkeeng engagement in the development of the offset plan should include, but not be limited to identification of appropriate offsetting areas, the selection and implementation of restoration treatments, monitoring of restoration results, and engagement in the development of adaptive management responses.
10. Manitoba Hydro to develop a governance structure for implementation of the offset plan that supports Sagkeeng engagement and participation.

11. Manitoba Hydro to work with Sagkeeng to develop an Indigenous knowledge-based approach to monitoring impacts and offsetting results, including a meaningful role for Sagkeeng in adaptive management decisions.
12. Manitoba Hydro to identify sufficient funding to cover all costs of long-term management and monitoring, including a role for Sagkeeng Guardians.

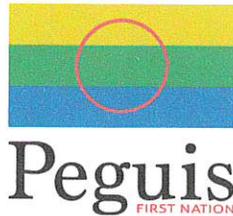
We note that key issues we flag in this memorandum are not the full extent of Sagkeeng's outstanding concerns with the proposed Project or Crown land and wetland offset plans. Sagkeeng reserves the right to identify additional concerns and information requirements as the plans are developed and finalized and looks forward to Manitoba Hydro increasing the level of engagement with us toward accomplishing these tasks.

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- . 2015b. "Assessment of Potential Environmental Effects on Land and Resource Use." In *Manitoba-Minnesota Transmission Project Environmental Impact Statement*, 178.
- . 2015c. "Assessment of Potential Environmental Effects on Vegetation and Wetlands." In *Manitoba-Minnesota Transmission Project Environmental Impact Statement*.
- . 2015d. "Assessment of Potential Environmental Effects on Traditional Land and Resource Use." In *Manitoba-Minnesota Transmission Project Environmental Impact Statement*, 89.
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- . 2019b. “Manitoba-Minnesota Transmission Project Draft Wetland Offset Measures Plan And Draft No Net Loss of Wetlands Plan.”
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Peguis First Nation's June 4, 2020 letter from to Crown Services (Peguis First Nation, 2020)



June 4, 2020

Honourable Jeff Wharton
Minister of Crown Services
Minister Responsible for Manitoba Hydro
Room 314
Legislative Building
450 Broadway
Winnipeg, MB R3C 0V8

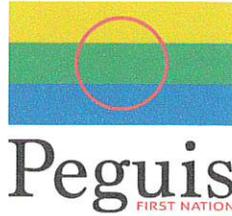
Dear Minister Wharton,

Re: Manitoba Minnesota Transmission Project and the draft Crown Land Offset Measure Plan

Recently Manitoba Hydro has introduced a proposed plan for southern First Nations that may be affected by the 'taking up' of crown lands and other lands to accommodate the Manitoba-Minnesota Transmission Project.

By way of background, Manitoba Hydro and the Province of Manitoba has offended and breached the Manitoba Natural Resources Transfer Agreement of 1930. At paragraph 11 of the MNRTA, the Province of Manitoba agreed to set aside Crown Lands so the southern First Nations will be able to meet and acquire Crown Lands under current and future Treaty Land Entitlement Agreements. Section 35 of the Canadian Constitution, 1982 confirmed this arrangement and as a result Crown Lands are still owed to the southern First Nations under current and future TLE agreements. This obligation will exist until the per capita requirements are met. When Canada transferred the natural resources to the Province of Manitoba in 1930 it was done subject to certain terms and conditions and that included preserving Crown Lands to meet TLE agreement obligations.

The Province of Manitoba, Peguis and the Federal Government have signed a TLE agreement that provides for Crown Lands to be transferred to Peguis to meet the TLE obligations. When Crown Lands are given to a crown corporation this is viewed as a breach to the Peguis TLE agreement, an agreement that is based on Treaty Rights and Constitutional Rights. In the Peguis TLE agreement article 0 of the agreement states, "Canada and Manitoba have agreed that Manitoba will satisfy in part its obligation to Canada under paragraph 11 of the MNRTA in the manner and to the extent provided in this agreement." In view of this breach there must be a form of compensation or damages that are owed to the Peguis First Nation.



In reviewing the proposed 'Crown Land Offset Measure Plan' Manitoba Hydro does not appear to acknowledge that they have acquired land in an unlawful manner. Manitoba Hydro ought or should have known about the obligations found in the Peguis TLE agreement. The obligation to provide Crown Land to Peguis is not a recent obligation and this obligation is based on Treaty Rights to land beginning in 1763 and confirmed in Treaty One of 1871. The offset measures have failed to address this fundamental breach and has offered no form of compensation, damages or restitution. It is incumbent on Manitoba Hydro to address these damages before any offset plans or measures are implemented.

In closing we have to reaffirm the constitutional priority for TLE bands such as Peguis and that has to be addressed before the offset plans and measures are implemented. To do otherwise will only exacerbate the breach resulting in a constitutional and treaty obligation quagmire.

I look forward to your response on this important matter.

Yours truly,

Chief Glenn Hudson

Cc: Jay Grewal, President and CEO, Manitoba Hydro
Mike Sutherland, Special Projects, Peguis First Nation

**Manitoba Hydro June 9, 2020 Letter to Sebastien Labelle, Major Projects
Management Office**



5-360 Portage Avenue • Winnipeg, Manitoba Canada • R3C 0G8
(204) 918-9848 • scoughlin@hydro.mb.ca

June 9, 2020

Mr. Sebastien Labelle
Director General
Major Projects Management Office
Natural Resources Canada
580 Booth Street
Ottawa, ON K1A 0E4

Dear Mr. Labelle:

RE: Manitoba-Minnesota Transmission Project– Crown Land Offset Measures Plan

Pursuant to Manitoba-Minnesota Transmission Project (MMTP) National Energy Board Certificate of Public Convenience and Necessity EC-059 condition 22, Manitoba Hydro has sought and received feedback on the draft Crown Land Offset Measures Plan. Thank you for the feedback provided by Natural Resources Canada on January 10, 2020.

Based on the limited feedback provided to date, Manitoba Hydro requested and has received an extension from CER for filing this condition to enable that consultation. The new filing date is August 31, 2020. A Summary of Consultation to Date is attached.

Some Indigenous communities expressed concern with the approach provided in the November 2019 draft Plan. Manitoba Hydro is developing a new plan and is proposing a revised approach here (see Summary Approach, attached). Comments and input on this Summary Approach will inform the new draft when developed. As the approach to fulfilling the Condition has changed from the original draft Plan provided in November of 2019, we are seeking feedback from your organization again. We welcome feedback before July 15, 2020. A final draft plan will be shared on July 29, 2020 for your further review and feedback. We will accept feedback on the final draft plan until August 17, 2020.

For your reference, certificate condition 22 states:

22. Crown land Offset Measures Plan

*Manitoba Hydro must file with the Board, for approval, **30 days prior to commencing operations**, a Crown Land Offset Measures Plan (the Plan) that outlines how permanent loss of crown lands available for traditional use by Indigenous Peoples resulting from the Project will be offset or compensated for. The Plan must include:*

- a) a description of site-specific details and maps showing the locations where Crown land is no longer available for traditional use as a result of Project activities at Dorsey Converter Station and the transmission tower locations, as well as any other locations;*

- b) a list of the offset or compensation measures that will be implemented to address the permanent loss of crown lands identified in a) above;*
- c) an explanation of the expected effectiveness of each offset measure described in b) for each Indigenous community;*
- d) the decision-making criteria for selecting specific offset measures that would be used and under what circumstances;*
- e) a schedule indicating when measures will be implemented and the estimated completion date(s);*
- f) summary of consultation by Manitoba Hydro with any impacted Indigenous communities and with relevant provincial and federal authorities regarding the Plan; and,*
- g) this summary must include a description of any issues or concerns raised regarding the plan by Indigenous communities and how Manitoba Hydro has addressed or responded to them.*

Should you have any questions or wish to discuss, please do not hesitate to contact me at 204-918-9848.

Regards,

Original signed by

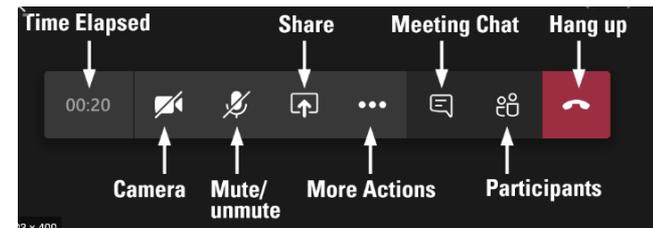
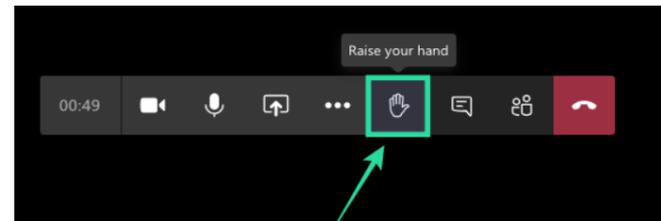
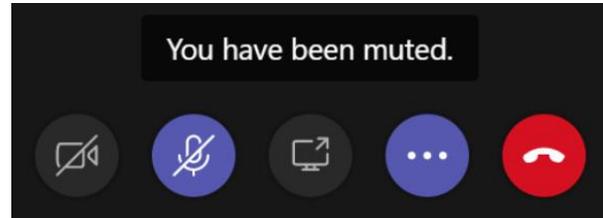
Sarah Coughlin
Licensing and Environmental Assessment Department
Manitoba Hydro
360 Portage Ave (5)
Winnipeg, Manitoba
R3C 0G8

Attachments: Summary of Consultation to Date; Summary of Approach

Manitoba Hydro's June 17,2020 MMTP online discussion forum for Condition 22 presentation (Manitoba Hydro, 2020)

During the Presentation

- Please mute your microphone while others are speaking
- Question period at designated times by either:
 - Raising your digital hand, or
 - Typing in comment or chat box





WELCOME EVERYONE!

MMTP Online Discussion Forum For Condition 22

June 17, 2020

Outline

1. Background

2. Introduction of Summary Approach

3. Questions, Comments & Ideas

4. Schedule for Feedback & Draft Plan

5. Questions, Comments & Ideas

6. Adjourn

1. Background

Brief Recap of Our Journey





Manitoba-Minnesota Transmission Project

- Project Infrastructure**
- ◆ Converter Station (Existing)
 - Crown Lands/Tower Footprint Intersection

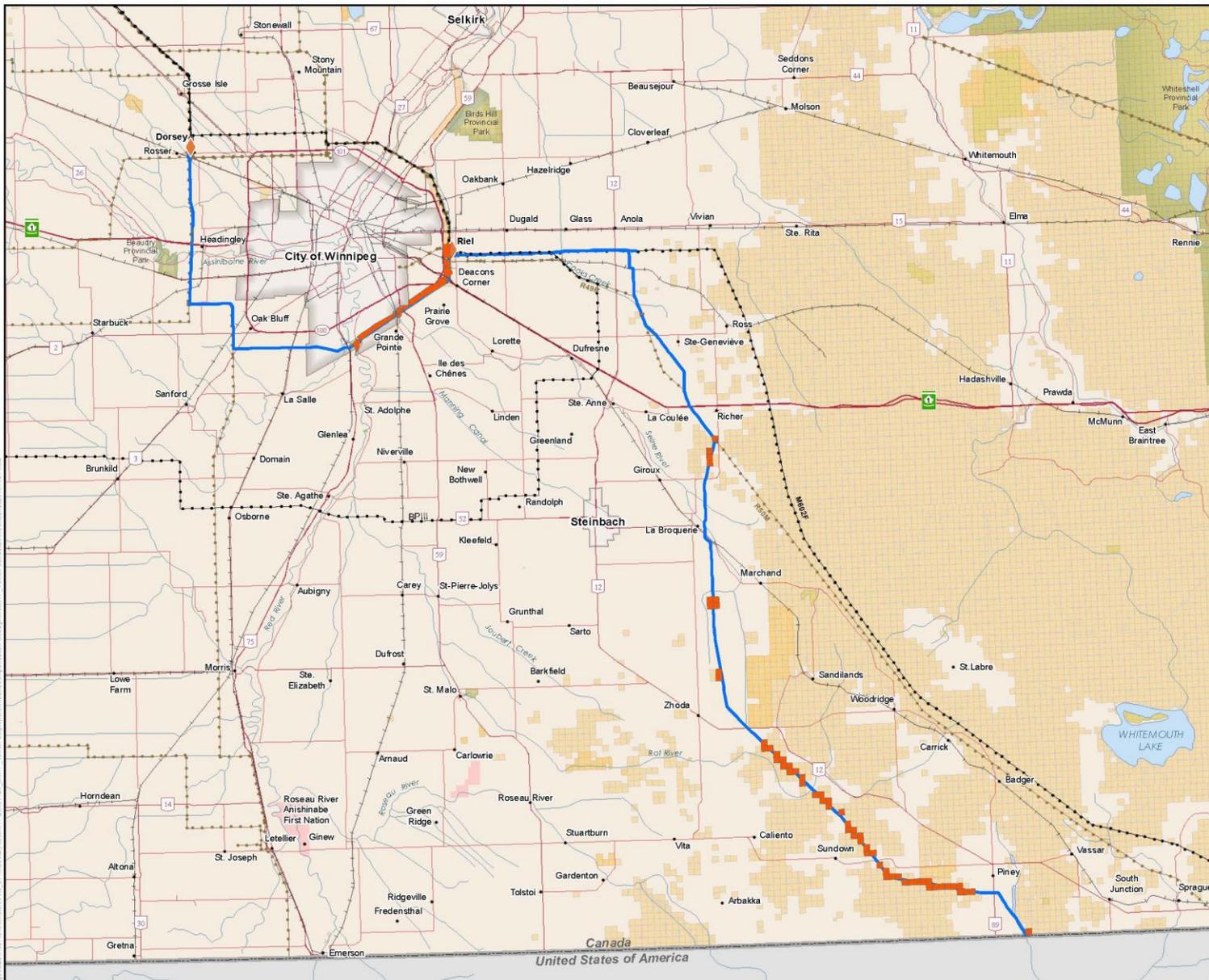
- Infrastructure**
- Existing 500kV Transmission Line
 - - - Existing 230kV Transmission Line

- Landbase**
- Community
 - Railway
 - Trans Canada
 - Provincial Highway
 - Provincial Road
 - City
 - First Nation Lands
 - Ecological Reserve
 - Wildlife Management Area
 - Provincial Park

Coordinate System: UTM Zone 14N NAD83
Data Source: MBHydro, ProvMB, NRCan
Date Created: November 06, 2019



Towers Footprints on Crown Lands



What is Condition 22?

It read as follows:

*22. Crown land Offset Measures Plan Manitoba Hydro must file with the Board, for approval, 30 days prior to commencing operations, a Crown Land Offset Measures Plan (the Plan) that outlines **how permanent loss of crown lands available for traditional use by Indigenous Peoples resulting from the Project will be offset or compensated for.***

The Plan must include:

- a) a description of site-specific details and maps showing the locations where Crown land is no longer available for traditional use as a result of Project activities at Dorsey Converter Station and the transmission tower locations, as well as any other locations;*
- b) a list of the offset or compensation measures that will be implemented to address the permanent loss of Crown lands identified in a) above;*
- c) an explanation of the expected effectiveness of each offset measure described in b) for each Indigenous community;*
- d) the decision-making criteria for selecting specific offset measures that would be used and under what circumstances;*
- e) a schedule indicating when measures will be implemented and the estimated completion date(s);*
- f) summary of consultation by Manitoba Hydro with any impacted Indigenous communities and with relevant provincial and federal authorities regarding the Plan; and,*
- g) this summary must include a description of any issues or concerns raised regarding the plan by Indigenous communities and how Manitoba Hydro has addressed or responded to them.”*



2. Introduction of Summary Approach

STEP 1

Manitoba Hydro will create a Trust to acquire new land and provide funding for Indigenous communities to engage in the land acquisition process



STEP 2

Communities will provide input on criteria for selecting lands



Proposed Criteria for Land Selection

- **Lands near the project**
- **Lands suitable for exercising rights**
 - Near a site identified in a tradition knowledge report
 - Undeveloped land or land in a natural state
 - Land that contains critical habitat or traditional plants
 - Large areas of land near existing Crown land
- **Fair market value, don't conflict with development plans and TLE**

Manitoba-Minnesota Transmission Project

Project Infrastructure

- Converter Station (Existing)
- MMTP Final Preferred Route

Infrastructure

- Existing 500kV Transmission Line
- Existing 230kV Transmission Line

Assessment Area

- Area of Focus for Land Parcel Selection

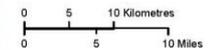
Ownership

- Crown Land

Landbase

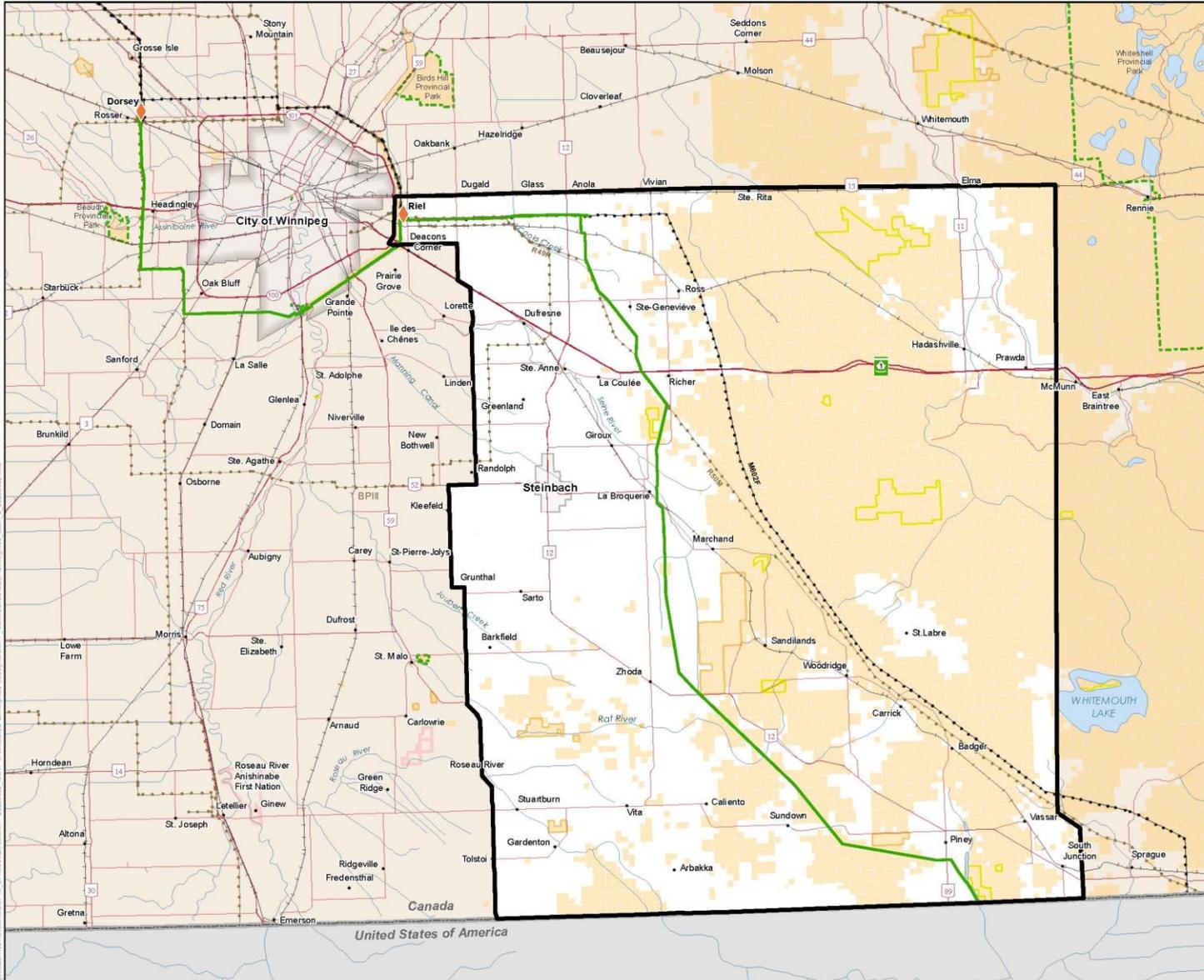
- Community
- Railway
- Trans Canada
- Provincial Highway
- Provincial Road
- City
- First Nation Lands
- Ecological Reserve
- Wildlife Management Area
- Provincial Park
- Rural Municipality

Coordinate System: UTM Zone 14N NAD83
 Data Source: MBHydro, ProMB, NRCAN
 Date Created: April 02, 2020



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Area of Focus for Land Parcel Selection



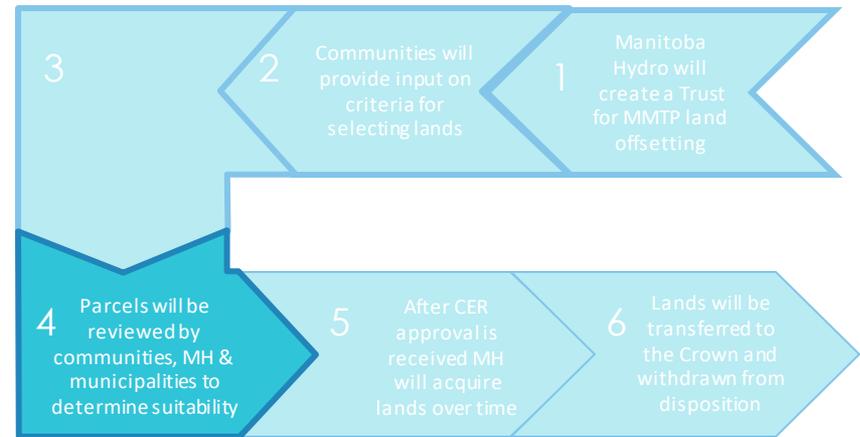
STEP 3

Parcels can either be suggested by communities or by Manitoba Hydro



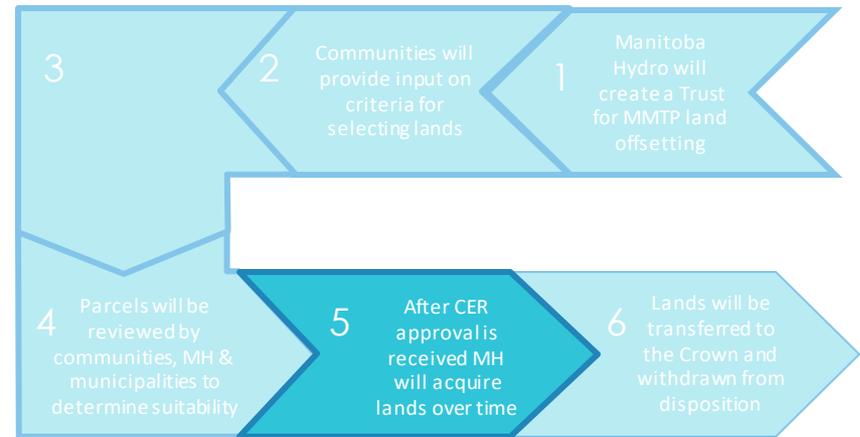
STEP 4

Parcels will be reviewed by communities, Manitoba Hydro and municipalities to determine suitability



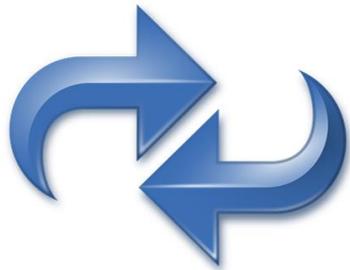
STEP 5

After Canada Energy Regulator approval of the plan is received, Manitoba Hydro will acquire private lands over time



STEP 6

Lands will be transferred to the Crown and withdrawn from disposition





Questions, Comments and Ideas

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Schedule for Feedback & Draft Plan Review



Questions, Comments and Ideas

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If any questions, please contact:

Sarah Coughlin

(204) 918 – 9848

scoughlin@hydro.mb.ca

Thank you for joining!

Manitoba Hydro's June 17, 2020 MMTP online discussion forum for Condition 22 meeting notes (Manitoba Hydro, 2020)

June 17, 2020

Condition 22 Discussion Forum Draft Notes

Manitoba Hydro welcomed attendees and introduced the format for the forum.

A short presentation was shared (see attached) and questions on the presentation were encouraged. The following provides a summary of the questions asked and responses provided during the Forum.

Questions & comments:

- The MMF would like to know how Manitoba Hydro intends to address concerns that are brought forward by the MMF and how these concerns align with the concerns of other Indigenous Nations.
- The MMF has concerns that the lands that Manitoba Hydro will purchase will become unavailable for Indigenous peoples to use or purchase themselves. Manitoba Hydro will now be buying up twice as much land as they originally were for the MMTP Project.
 - o Manitoba Hydro shared that the current plan is to purchase private parcels of land that may not be typically used for traditional activities as much as an equivalent Crown land parcel may be.
 - o The MMF responded that Indigenous nations do harvest from private land. Is the intent for all communities to be able to harvest on a tiny piece of private land?
 - o Manitoba Hydro responded that they heard from communities that private lands are not as accessible as Crown land for the practice of traditional activities, so the idea is to make those private lands more accessible by converting them to Crown land for the practice of traditional activities.
- The MMF has concerns regarding the Crown land designation. Right now, private lands can be used by Indigenous nations (with some barriers) or nations could purchase the lands themselves if they wanted to. These lands will be purchased by Manitoba Hydro and changed to Crown land designation for Indigenous use. What happens when the Province wants to use that land for something else? The MMF has concerns that the Crown land designation will be easy to change for other use in the future.
 - o Manitoba Hydro shared that this is something that Manitoba Hydro also wants clarity on [how to protect these new Crown lands from development into the future]. As this type of plan is new, Manitoba Hydro plans to go back to communities and ask if the plan needs to be tweaked as it's implemented in order to remain adaptive.
- The MMF shared that they've seen a number of land offset plans and are curious as to what Manitoba Hydro is using as guidelines (e.g. wetland offset plans, agricultural land offset plans, carbon offset plans, etc.). The MMF has concerns that Manitoba Hydro has prepared land offset plans before and that the provincial government was not as involved as they should have been. Crown land offset plans have not been done at the Provincial or Federal level yet so the MMF's ability to comment on this plan is limited and this is problematic. The MMF has concerns that the Crown lands department is not at the table here when they should be. The MMF would like to know when the Crown lands department will be involved, if they are not already.
 - o Manitoba Hydro has been looking at a number of wetland, biodiversity and federal fish habitat offset plans, and a common factor to most of these offset plans is the use of

multipliers to determine the offset needs. For example, when offsetting a wetland for another wetland, the two wetlands may have different ecological function (or provide different benefits to the environment) and so, the required offset can sometimes be twice or 3 times as much land as the original wetland impacted. With greater uncertainty the multiplier is often higher or, if the area used to offset is known to be lower quality habitat, or provide fewer benefits to the environment, the multiplier is higher. This is something Manitoba Hydro has considered in this revised summary approach.

- The MMF has concerns that wetland offset plans in the Province were done without Indigenous consultation, they had some public consultation but not Indigenous engagement. Manitoba Hydro is doing the engagement process that some of the Crown is supposed to do. For this reason, the MMF believes that the provincial Crown lands department should be at the table here. The MMF expressed that the biggest gap we have here, is that this plan is being put out there, but we are not involving the Province. As well, Indigenous nations are often not involved in the process of identifying lands and values. This is the first time this is being done so it should not be taken lightly.
 - o Manitoba Hydro shared that they have had discussions with the Province and that the Province has been included in the review of the November 2019 draft plan and this revised summary approach. The Province will also be included in the review of the Draft Final Plan when it is ready to be circulated. Manitoba Hydro has every intent to take great care and caution with this plan and believes that this is reflected in our efforts to continuously seek input from many groups on this plan.
- The MMF expressed that if there are any documents Manitoba Hydro is using as guidance for valuation of land, they would appreciate having those. These documents could inform our comments and it would be helpful to know some of the assessment criteria Manitoba Hydro is using.
 - o Manitoba Hydro shared that there is lots of information coming from Alberta for environmental offset plans, but that Manitoba Hydro has not seen any for Crown land offsets so if anyone has anything in relation to Crown land offsets, Manitoba Hydro would be open to reviewing those documents as well.

In response to providing a list of resources used, Manitoba Hydro offers the following list of some of the offset plans considered when preparing this Summary Approach:

David Poulton out of Alberta has written about offset programs in Canada:

[Offsetting for Caribou toward an assessment framework for the Northwest Territories](#)

[Biodiversity and Conservation Offsets – A Guide for Albertans](#)

[Biodiversity offsets – a primer for Canada](#)

[Key Issues in Biodiversity Offset Law and Policy: A Comparison of Six Jurisdictions](#)

And other Canadian examples:

[Buying a Better Environment? Market-Based Instruments & the Alberta Land Stewardship Act](#)
(this is one volume of a series)

[BC has some great info/videos on offsets in general](#)

- The MMF shared that they will be providing written comments around the process of Crown land selection and Crown land management in general in Manitoba and that they are not seeing how federal and provincial management of Crown land guidelines are currently being considered in this plan.
- The MMF shared that based on their knowledge of the south east, there is a network of access roads throughout those areas, which is a double-edged sword. These lands that are very accessible will be converted for traditional use activities which might be problematic. There is a ton of activity within that area already, so maintaining some kind of understanding (maybe signage) that the land is for the MMTP project and for traditional activities may need consideration. The MMF's concern is how this land will be managed as we believe there needs to be improvements in Crown land management in the province in general.
- Manitoba Hydro added that they would like to know if people would want specific infrastructure at these parcels of land (e.g. parking, cultural sites).
 - o As no comments were provided on this item, Manitoba Hydro noted that input on this in future discussion is welcomed.

Manitoba Metis Federation's June 29, 2020 letter to Manitoba Hydro (Manitoba Metis Federation, 2020)



David Chartrand, LL.D. (Hon)
President

MANITOBA METIS FEDERATION INC.

300 - 150 Henry Avenue, Winnipeg, Manitoba R3B 0J7

Phone: (204) 586-8474 Fax: (204) 947-1816 Website: www.mmf.mb.ca

June 29, 2020

****VIA E-MAIL****

Jeffrey Betker,
Vice President responsible for Indigenous Relations
Manitoba Hydro
360 Portage Avenue
Winnipeg, MB R3C 0G8

Dear Mr. Betker,

Re: MMF's Concerns with Manitoba Hydro's Crown Land Offset Measures Plan for Condition 22 of Certificate EC-059

On behalf of the Manitoba Metis Federation (the "MMF"), which is the democratically elected self-government representative of the Métis Nation's Manitoba Métis Community, I am writing regarding Manitoba Hydro's ("Hydro's") draft Condition 22 Crown Land Measures Offset Plan (the "Plan") for Certificate EC-059 for the Manitoba Minnesota Transmission Project (the "MMTP" or the "Project"). On June 5, 2020, Hydro shared what—in its own words—is "an outline" of the Plan that purportedly reflects an updated approach from what was the subject of the MMF's February 14, 2020, letter and concerns.¹ As further outlined below, the MMF continues to have significant concerns regarding Hydro's Plan and approach to Condition 22, including that:

- 1) Hydro's Plan continues to disregard the significance of Condition 22 in discharging the federal Crown's duty to consult and accommodate for impacts of the MMTP on s. 35 Métis rights;

¹ Email from Hydro to MMF (5 June 2020), Attachment 1: Summary Approach, page 1. See also the MMF's letter that outlined our concerns—many of which remain unresolved—in greater details: (14 February 2020) ([C04733-1](#)).

- 2) Hydro's Plan continues to not meet the plain language and requirements of Condition 22 and risks leaving the MMF with an empty shell of the Condition; and
- 3) Hydro's unilaterally developed Plan disregards the findings of the National Energy Board ("NEB") regarding the limited availability of suitable lands in the area of the Project.

The MMF is providing the below comments on Hydro's "outline" of the Plan; however, we wish to make two preliminary points to highlight our significant concerns with Hydro's consultation process and how it also does not meet what is required by Condition 22.

First, consultation about "an outline" of a Plan is not a substitute for consultation about the Plan itself. The MMF has not been provided a revised copy of the Plan since the version that was the subject of the MMF's February 14 letter and significant concerns. The devil is in the details and those details are unknown to the MMF. The MMF's comments in this letter are therefore not exhaustive and a meaningful and robust consultation process about the actual Plan—and not merely "an outline"—is still required.

Second, we are significantly concerned that, despite repeatedly raising the need for a meaningful consultation process regarding the Plan, Hydro is withholding necessary details until the eleventh hour and manipulating the process that it unilaterally controls to undermine the ability of the MMF, and other Indigenous communities, to provide a thorough review and comments. Specifically, Hydro now says that it does not anticipate sharing the actual Plan until July 29, 2020, at which point the MMF will have less than three weeks to review it and provide feedback before Hydro submits the Plan to the CER. This is entirely insufficient and unreasonable.

We are copying this letter to the CER, so that it is aware of our concerns. The remainder of this letter sets out the above points in greater detail.

1) Hydro continues to ignore the significance of Condition 22 in discharging the Crown's duty to consult and accommodate

The MMF has previously outlined how Condition 22, among others, was expressly modified by the federal Crown as part of fulfilling its duty to consult and accommodate.² The duty to consult and accommodate is grounded in the honour of the Crown, which equally applies to both the consultation and accommodation components of the duty. They are two halves of the same coin.

² Among other correspondence, see: letter from MMF to Hydro (14 February 2020) ([C04733-1](#)); letter from MMF to NEB (5 September 2019) ([C01479-1](#)); letter from MMF to NEB (16 August 2019) ([C01061-1](#)); letter from MMF to NEB (23 July 2019) ([C00653-1](#)).

As such, the honour of the Crown attaches to Condition 22 and the implementation of the accommodation measure therein.

In response to Hydro's draft Plan, Canada has likewise confirmed that:

the Government of Canada is relying on Manitoba Hydro's compliance with the Canada Energy Regulator (CER) Conditions 22 and 26 to accommodate potential impacts to Indigenous groups' Aboriginal and Treaty rights. As such, NRCan encourages Manitoba Hydro to consider the views raised by Indigenous communities during the engagement activities described in section 5 of both plans.

With respect to the Crown Land Offset Measures Plan, the CER will determine whether Manitoba Hydro has adequately measured and defined the "permanent loss of Crown lands available for traditional use by Indigenous peoples." NRCan expects that lands acquired to comply with CER Condition 22 will be suitable for the exercise of potentially impacted Indigenous groups' Aboriginal and Treaty rights.³

Despite this clear statement by Canada, Hydro has said only that in its Plan "land suitable for the exercise of Aboriginal and Treaty rights is to be preferred."⁴ In order to uphold the honour of the Crown it is not enough that offsetting impacts on Aboriginal and Treaty rights "be preferred." Section 35 rights must be at the center of any proposed Plan if the Condition is to fulfill its accommodation purpose; otherwise Indigenous Peoples' "loss of crown lands available for traditional use" could be offset by providing barren fields, salted earth, or an industrial wasteland.

The changes that the federal Crown made to Condition 22, among others, in order to fulfill its duty to consult and accommodate are a distinction with a difference. That difference requires Hydro to design and implement a Plan that can accomplish the actual accommodation required not just propose a hollow process, submit a Plan, and check a box. Yet Hydro's continuing failure to take into account the distinct accommodation role of Condition 22 threatens to undermine the entire purpose of the promised accommodation and therefore also the Plan itself.

Canada has repeatedly been clear: the question that the CER must ultimately answer in reviewing the Plan is whether it upholds the accommodation provided for in Condition 22 in a manner consistent with the honour of the Crown, or does it leave the MMF, and all Indigenous communities, with an empty shell of that promise? For the reasons outlined below, Hydro's current Plan and "outline" fall well short of the mark.

2) Hydro's Plan continues to not meet the plain language and requirements of Condition 22 and risks leaving the MMF with an empty shell of the Condition

³ Email from Hydro to MMF (5 June 2020), Attachment 2: Summary of Consultation to Date, Table 4 (Feedback provided by Major Projects Management Office, Natural Resources Canada) (emphasis added).

⁴ Email from Hydro to MMF (5 June 2020), Attachment 1: Summary Approach, page 5.

At its most basic, Hydro's Plan remains to identify and set aside alternative lands to offset those lost for traditional use by Indigenous communities. As outlined in greater detail in the MMF's February 14 letter, Hydro's Plan—and subsequently also its “outline” provided on June 5—continue to suffer from fatal flaws that make it impossible to outline the “expected effectiveness,” “schedule,” and “estimated completion dates” as required by Condition 22.⁵ Moreover, by underestimating both the quantity of land and the cost and complexity of land selection, Hydro's Plan risks the promised accommodation being rendered meaningless through delay and attrition.

Hydro's Plan proposes a global sum that is meant to cover land identification/selection costs, engagement costs (with Indigenous communities, municipalities,⁶ and other parties), and acquisition costs. However, as decades of First Nation Treaty Land Entitlement in Manitoba have shown, the process of land selection is a long, complex, and complicated process. Even assuming that there would be sufficient quantity of potential lands available—which, as outlined below, the NEB already determined is not the case—Hydro's proposed approach is that “reimbursement [for this land selection] will be from the Trust.” This means that where land selection costs exceed what is currently budgeted for by Hydro—which, based on the MMF's experience it will—these costs will slowly whittle away the amount allocated for actually purchasing offset lands. Indigenous communities are left with a promise that is nothing more than cents on the dollar.

Also, as the MMF has previously outlined, it is essential the promised accommodation vest in the Indigenous communities that bear the burden of the Project's impacts on their s. 35 rights.⁷ The detailed requirements in Condition 22 are meant to ensure that the benefit “offset or compensat[ion]” is not so amorphous or hypothetical that it becomes unattainable or is, in fact, improperly provided to people other than the Indigenous communities ourselves. Problematically, Hydro's Plan still relies on the provincial Crown to implement it and ultimately provides the entirety of the benefit—in land—to the province:

once a parcel has been purchased it will be transferred to the Province of Manitoba through a written arrangement between Manitoba Hydro and the Province [whereby] the Province will accept transfer of the parcel and will withdraw the parcel from disposition, thereby removing the parcel from the Property Registry and making it ineligible for further sale or transfer.⁸

⁵ The MMF has previously outlined how, among other things, Hydro's Plan has been unilaterally developed, without consultation and input from the MMF, and does not meet the requirements of Condition 22: letter from MMF to Hydro (14 February 2020) ([C04733-1](#)).

⁶ The MMF has significant concerns with Hydro's proposed “criteria for selecting lands” including consulting with municipalities as part of the land selection process. Municipalities are often unwilling to have lands used by Indigenous people in or adjacent to their boundaries. Criteria that take into account municipal input, particularly where land is already intended to be on a willing seller/willing buyer basis further undermines the already remote possibility that suitable lands can actually be identified.

⁷ Letter from MMF to Hydro (9 April 2020) ([C05685-1](#)).

⁸ Email from Hydro to MMF (5 June 2020), Attachment 1, page 7.

This does not, however, provide any assurance to the MMF, or other Indigenous communities, that the Province will not subsequently undo its withdrawal and sell the land transferred to it, as it has increasingly been doing with provincial Crown lands throughout Manitoba. The MMF's position is that if the Plan includes lands—which, as outlined below, may not be a realistic or reasonable option—those lands should be transferred to the Indigenous communities themselves—including the MMF—or to the federal Crown for the ongoing benefit of the Indigenous communities who are impacted by the MMTP. It is the federal Crown that is relying on Condition 22 as part of discharging its duty to consult and accommodate. It is therefore the federal Crown that is required, by the honour of the Crown, to ensure that the implementation of this Condition, including any offset lands, is managed on an ongoing basis in a manner that upholds the honour of the Crown and duties flowing therefrom.

3) Hydro's unilaterally developed Plan disregards the findings of the NEB regarding the limited availability of suitable lands

The MMF is also concerned that Hydro's Plan is premised on a tunnel vision approach that offset lands are the only way to fulfill Condition 22 and that Hydro has therefore pre-determined the Plan's outcome. Consultation, if it is to be meaningful, requires a two-way dialogue, with give-and-take on both sides and the serious consideration of changes to the Plan to address the concerns raised by Indigenous communities. A pre-determined outcome that land is the only option entirely negates the purpose of the consultation required by Condition 22.

In particular, we are deeply concerned that in adopting this unilateral tunnel-vision approach, Hydro, as a Crown Corporation, is being unduly swayed and influenced by the Manitoba Government which—as outlined above, ultimately receives the entire benefit from the proposed Plan and—has confirmed its view is that “the only way to satisfy the condition to offset Crown land is through the acquisition of alternative lands.”⁹ This ignores the plain language of Condition 22 and disregards the findings of the NEB that “the Project is located in an area of the province in which Crown land of the type and quality sufficient to be considered in future negotiations is in relatively short supply.”¹⁰ It is for this reason that Condition 22 did not solely focus on land as a potential offset measure but identifies the need to include “a list of the offset or compensation measures” and contemplates different measures applying in different circumstances. Hydro has ignored this and unilaterally developed a Plan exclusively focused on one pre-determined outcome, with no plan B options, without the MMF's input or views on whether this is even appropriate, reasonable, or realistic.

In light of the above, the MMF is repeating our request for meaningful consultation regarding the Plan and an honest dialogue with Hydro about our concerns that includes serious consideration of alternative options for the Plan that can address the fatal flaws and failings outlined above and in our previous letters. We will be in touch with Hydro staff directly regarding a revised workplan

⁹ Email from Hydro to MMF (5 June 2020), Attachment 2, page 21, emphasis added.

¹⁰ NEB Reasons for Decision on MMTP (November 2018) at 4 ([A95736-1](#)).

and budget for this process.¹¹ Should you have any concerns regarding the content of this letter please feel free to contact me directly by email at marci.riel@mmf.mb.ca.

Meegwetch,



Marci Riel
Senior Director of Energy, Infrastructure, and Resource Management

cc President David Chartrand and MMF Cabinet
Sebastien Labelle, Director General, Natural Resources Canada
Jean-Denis Charlebois, Secretary of the Commission, Canada Energy Regulator

¹¹ To date, Hydro has not provided any funding to support the MMF participating in the consultation required by the Condition. While Hydro proceeds to fund other Indigenous communities, it has asked MMF to “resubmit a proposal and accompanying budget with a reduced scope” based on an arbitrary cap that was only communicated to the MMF on June 5, 2020. In addition to our concerns outlined above about Hydro manipulating the consultation process, the MMF has significant concerns with Hydro’s allocation that provides the same amount of funding to a First Nation of 430 members as to the MMF that represents over 120,000 Métis citizens living—and exercising their s. 35 Métis rights—throughout Manitoba. This is not meaningful or reasonable consultation with the Manitoba Métis Community.

Sagkeeng First Nation's July 15, 2020 Preliminary Comments on the Revised Summary Approach for a Crown Land Offset Measures Plan for the Manitoba-Minnesota Transmission Project (Sagkeeng Anicinabe First Nation with Firelight Research Inc., 2020)



Sagkeeng Anicinabe

TECHNICAL MEMORANDUM

Sagkeeng First Nation Preliminary Comments on the Revised Summary Approach for a Crown Land Offset Measures Plan for the Manitoba-Minnesota Transmission Project

Prepared By: Sagkeeng Anicinabe First Nation with Firelight Research Inc.

Submitted To: Sarah Coughlin, Senior Environmental Specialist, Manitoba Hydro

Date: July 15, 2020

Dear Sarah Coughlin,

Please find enclosed Sagkeeng Anicinabe First Nation's (Sagkeeng) initial round of comments on *A Revised Approach for a Crown Land Offset Measures Plan: A summary document for discussion* (Manitoba Hydro 2020a), referred to herein as the Summary Approach.

Manitoba Hydro prepared the Summary Approach as an outline of its current Draft Crown Land Offset Measures Plan. This draft represents a revision of the 2019 November Draft Plan, based on comments received from Sagkeeng and other communities.

Sagkeeng's preliminary concerns with the Summary Approach include:

- 1. Lack of a comprehensive traditional land and resource use study:** Sagkeeng has concerns that Indigenous consultation to date has been insufficient for adequate identification of residual project effects and the development of appropriate offset measures. Sagkeeng reiterates requests for the completion of a rigorous and comprehensive Traditional Land and Resource Use study within the Project area to inform the development of appropriate offset measures.
- 2. Underestimation of the Trust contribution required to ensure effective offsetting for impacts to Crown land use:** Manitoba Hydro's proposed approach fails to account for the loss of use associated with the Right of Way and overhead transmission lines, resulting in an underestimation of residual project effects for which offsetting is required. Furthermore, Manitoba Hydro has revised land compensation calculations using a reduced land value of \$5,189/ha. This represents a 66% decrease compared to the easement rate of \$13,400/ha applied in the original *Draft Crown Land Offset Plan* and may substantially underestimate the funds required to purchase private land parcels. Finally, Manitoba Hydro's proposed contribution to the Trust does not include sufficient funding for community engagement, monitoring, or adaptive management, which are crucial components of effective offsetting systems.
- 3. Unclear and insufficiently resourced mechanisms for community input in the identification of selection criteria and potential land parcels:** Manitoba Hydro's proposed approach places

the onus on members of the MMTP Monitoring Committee to inform and engage community members on behalf of Manitoba Hydro, without the provision of adequate resources necessary to do so. Potential land parcels, for example, will be suggested and shared through a password-protected webpage on the existing MMTP Monitoring Committee website. Sagkeeng, however, does not participate in this committee due to concerns we have previously raised with Manitoba Hydro. Sagkeeng recommends a more collaborative process that engages communities and land users directly in the initial identification of selection criteria and potential land parcels.

4. **Lack of Indigenous representation in the decision-making process for selection of land parcels:** While Manitoba Hydro has allocated up to \$15,000 total (\$5,000 per land parcel, for up to three parcels) per community to review and comment on suggested land parcels, this is not adequate to support meaningful community engagement in the selection of land parcels. Furthermore, it is unclear if or how Sagkeeng leadership will be involved in decision-making and final selection. Sagkeeng requests that offset measures be implemented in a collaborative manner, including community representation in the decision-making process.
5. **Lack of a timeline for the purchase of Crown lands:** Adequate time for consultation and collaborative decision-making are critical for ensuring the continuity of important cultural practices impacted by the loss of Crown lands. Sagkeeng requests the collaborative development of a schedule for offset implementation that includes the timely purchase of private lands, informed by adequate community engagement.
6. **Lack of monitoring and adaptive management:** Monitoring and adaptive management are crucial for ensuring that offset measures do in fact produce the desired ecological and cultural outcomes. Sagkeeng reiterates requests for the inclusion of monitoring and adaptive management in the Crown Land Offset Measures Plan for the MMTP.

Many of the concerns expressed in this memo are consistent with concerns expressed in previous submissions made by Sagkeeng, which have not been adequately addressed to date (see Appendix 1 of the attachment, which summarizes the adequacy of Manitoba Hydro's responses to Sagkeeng's initial memo from April 2020). Recommended measures described in the enclosed memo are critical to filling enduring gaps in MMTP offset measure planning and implementation. Where Manitoba Hydro is considering not adopting any of these measures, Sagkeeng requires written justification from Manitoba Hydro and additional direct consultation toward an appropriate solution.

Sagkeeng recognizes that the Draft Crown Land Offset Plan is a work in progress and reserves the right to identify additional information requirements as the plans are developed and finalized. We look forward to Manitoba Hydro contacting us to engage in these critical conversations.

Meegwetch,

Chief Derrick Henderson

Sagkeeng Anicinabe Government

CC: Louise George, Secretary of the Canada Energy Regulator

Attachment: Sagkeeng Preliminary Comments on the Revised Summary Approach for a Crown Land Offset Measures Plan for the MMTP

PRELIMINARY COMMENTS ON THE REVISED SUMMARY APPROACH FOR A CROWN LAND OFFSET MEASURE PLAN FOR THE MMTP

SAGKEENG ANICINABE FIRST NATION

CONDITION 22: THE CROWN LAND OFFSET MEASURES PLAN

The Manitoba to Minnesota Transmission Project (MMTP) is a 213 km transmission line that intersects the traditional and ancestral territories of Sagkeeng Anicinabe First Nation (Sagkeeng), signatories of Treaty 1. The transmission line corridor overlaps with 55 linear kilometers of Crown land and includes the creation of a new Right of Way (ROW) from south of Anola to the Manitoba-Minnesota border. Of the 139 transmission line towers situated on Crown land, 46 are located adjacent to an existing transmission line or along cultivated lands. The majority of the remaining transmission line towers are located within undeveloped forested or wetland areas.

Sagkeeng has expressed substantial concerns regarding project impacts to Sagkeeng rights and interests, including the loss of Crown lands for traditional use (e.g., Sagkeeng First Nation 2018, 2020). Crown lands are effectively the only lands left for Sagkeeng to practice traditional harvesting, given the widespread alienation from the land base by privatization, industrialization and other land fragmentation factors (Sagkeeng First Nation 2018). Remaining areas of Crown land are integral to supporting the continuity of Sagkeeng cultural practices, including land-based activities such as fishing, hunting, rice picking, berry picking, medicine gathering, and trapping (e.g., Olson, Firelight Research Inc., and Sagkeeng Anicinabe 2019).

As a condition of the Certificate of Public Convenience and Necessity EC-059 for construction of the MMTP, Manitoba Hydro is required to consult with Indigenous communities to develop a Crown Land Offset Measures Plan (Condition 22). This plan must outline how the loss of Crown land for traditional use by Indigenous peoples will be offset or compensated for by Manitoba Hydro.

A Draft Crown Land Offset Measures Plan was presented by Manitoba Hydro in November 2019 (Manitoba Hydro 2019). Concerns with the November 2019 Draft Plan submitted by Sagkeeng included: a lack of Indigenous engagement; a severe underestimation of residual project effects leading to an inadequate offsetting area; and the use of an inappropriate offset measure (Sagkeeng First Nation 2020). In response to the feedback received from Sagkeeng, and other Indigenous communities, Manitoba Hydro developed a revised approach for the Crown Land Offset Measures Plan. An outline of this plan (the Summary Approach) was shared with Sagkeeng on June 5, 2020 (Manitoba Hydro 2020a).

Despite revisions to the proposed process, some of Sagkeeng's concerns have not been adequately addressed in the revised approach (please refer to Appendix 1 for a full summary). In the sections that

follow, Sagkeeng provides a summary of concerns pertaining to the revised Summary Approach, and recommended measures for the development of an appropriate Crown Land Offset Measures Plan.

PRELIMINARY COMMENTS ON THE SUMMARY APPROACH

Omitted Step: Traditional Land and Resource Use Study

A robust baseline assessment of traditional land use and values represents a critical component of the mitigation hierarchy, currently lacking from Manitoba Hydro's proposed approach for Crown land offsetting measures. Community-led traditional land and resource use studies provide important information about the historical and contemporary traditional use practices and knowledge of a nation. When community engagement is initiated early, these studies can inform project design, such as transmission line routing, and contribute to the development of appropriate mitigation measures (Energy and Mines 2014). Where impacts cannot be avoided by project design or mitigation, a thorough baseline assessment provides valuable information about the affected cultural functions or values for which offsetting must occur (McDermott and Bell 2017).

Sagkeeng engagement to date has been severely limited by the lack of a proper traditional land and resource use study for the MMTP. While Manitoba Hydro continues to reference Sagkeeng's *O-Pimatiziwin 2* report as a traditional knowledge study (e.g., Manitoba Hydro 2020b), Sagkeeng has repeatedly made it clear that this document represents only a preliminary scoping report and is not sufficient to meet the requirements of a robust traditional land and resource use study (Sagkeeng First Nation 2018, 2015, 2020). A proper baseline assessment of impacts to Sagkeeng rights and interests is needed in order to develop an informed characterization of residual adverse effects associated with the loss of Crown lands and identify offset measures that will adequately compensate for these impacts.

In keeping with the Universal Precautionary Principle (Akins et al. 2019), and good practices for community engagement (Energy and Mines 2014), Sagkeeng recommends that traditional knowledge systems should be respectfully adopted in the development of offset measures through participatory mechanisms. Sagkeeng reiterates our request that Manitoba Hydro provide the time and resources necessary to conduct a comprehensive traditional land and resource use study that will properly characterize impacts to Crown land use and inform the development of appropriate offset measures.

Recommended measure(s): Manitoba Hydro to work with Sagkeeng to provide the time and resources necessary to conduct a comprehensive traditional land and resource use study for the project-affected area, with appropriate methodology and confidentiality agreements.

Step 1: Manitoba Hydro will create a Trust for MMTP land offsetting

Sagkeeng has concerns that Manitoba Hydro's proposed contribution to the Trust severely underestimates the funds necessary to effectively offset impacts to Crown land use, due to: a) an underestimation of residual project effects and the area required to offset these impacts; b) an underestimation of the funds required to purchase private lands; and c) insufficient allocation of funds for community engagement, monitoring, and adaptive management.

a) Underestimation of the area required for offsetting.

Despite concerns expressed in Sagkeeng's preliminary comments on the Draft Crown Land Offset Plan (Sagkeeng First Nation 2020), Manitoba Hydro continues to assume that Crown land use will be unaffected beyond the immediate footprint of each tower foundation and converter station (Manitoba Hydro 2020a). This assumption results in an underestimation of residual project effects to Crown land use, and the offset area required to compensate for these impacts.

Previous submissions from Sagkeeng clearly demonstrate impacts to use associated with ROW clearing and maintenance, as well as the presence of overhead transmission lines. Such impacts include, but are not limited to: long-term alteration of important habitat where Sagkeeng community members hunt and trap; impacts to the abundance and distribution of culturally important wildlife, such as moose; and a loss of confidence in the quality of resources, such as medicinal plants, resulting in the loss of harvesting opportunities (Sagkeeng First Nation 2015, 2018, 2020).

Sagkeeng reiterates our request that Manitoba Hydro revise the Crown land offset plan to account for residual effects within the transmission line corridor, including the overhead transmission lines and maintenance of the ROW. At a minimum, this calculation should include 550 hectares (1,359 acres) of Crown land, representing 55 km of transmission line with a corridor of 100 m. This represents a 183.2% difference (or 2,182% increase) compared to the 24.1 hectares (59.6 acres) of permanent Crown land loss identified by Manitoba Hydro in the Summary Approach. These impacts are not sufficiently addressed by Manitoba Hydro's application of a 4:1 offsetting ratio, which yields a 96.4 ha (238 acre) consideration for offsetting.

Sagkeeng's request to include the total length and width of the corridor in calculating Crown land offset requirements is consistent with Manitoba Hydro's compensation practices for private landowners. Land compensation calculations summarized in informational materials for the MMTP clearly indicate that landowners are compensated for the total length and width of the corridor.¹

b) Underestimation of the funds required to purchase and transfer private lands.

Sagkeeng has substantial concerns that Manitoba Hydro's proposed contribution to the Trust underestimates the funds required to purchase private lands. In the Summary Approach, Manitoba Hydro uses a current land value of \$5,189/ha (\$2,101/acre) to calculate Trust fund requirements. This represents a 61% decrease compared to the \$13,400/ha (\$5,425/acre) easement rate used to calculate land compensation in the November 2019 Draft Crown Land Offset Measures Plan (Manitoba Hydro 2019). Furthermore, this current land value does not include for costs associated with the acquisition, or interim ownership of the land prior to transfer, which will also be drawn from the Trust.

Given uncertainties regarding the location and value of appropriate private land parcels, Sagkeeng recommends budgeting a more precautionary easement rate for the purchase and administration of

¹ Manitoba-Minnesota Transmission Project Landowner Compensation Information. Accessed July 10, 2020: https://www.hydro.mb.ca/docs/regulatory_affairs/projects/mmt/mmt_landowner_compensation_brochure.pdf

lands that will be transferred to the Crown. This rate should be based on the anticipated value of private lands that will be purchased to offset impacts to Crown land use.

c) *Insufficient allocation of funds for community engagement, monitoring, and adaptive management*

While Manitoba Hydro has earmarked \$315,000 for continued engagement and consultation, Sagkeeng has concerns that this amount will not be sufficient for meaningful engagement with 21 communities. It is unclear, for example, how community input in steps 2 and 3 will be resourced. Furthermore, funds allocated for community input in step 4 are not sufficient for meaningful engagement. Finally, funds in the Trust must be sufficient to cover monitoring and adaptive management, which are crucial components of effective offsetting systems (please refer to comments on Step 6).

Recommended measure(s): Sagkeeng requests that Manitoba Hydro makes the following changes to the proposed Trust contribution:

- a) Offsetting for a minimum of 550 hectares (1,356 acres) of Crown land impacted by the MMTP.
- b) A minimum contribution per hectare that reflects the anticipated value of private lands that will be purchased to offset impacts to Crown land use.
- c) Sufficient funds to cover the costs of meaningful community engagement, monitoring, and adaptive management (including a role for Sagkeeng Guardians).

Steps 2 and 3: Communities will provide input on criteria for selecting lands; Parcels can either be suggested by communities or by Manitoba Hydro

The mechanism for community input in these steps is unclear and insufficiently resourced. Engagement with resource users is critical for understanding where and how the compensation should happen to ensure that they provide the intended benefits. This engagement is particularly critical for the MMTP Crown land offset plan, given a lack of sufficient baseline data collection and engagement in early planning and mitigation stages of the Project.

In Step 2 of the Summary Approach, Manitoba Hydro states that they “will continue to seek to better understand location and refine the criteria to be used to select lands of interest” (Manitoba Hydro 2020a, p 5). However, no processes are proposed to promote or facilitate community input in the identification of criteria. Despite Sagkeeng’s best efforts to conduct community engagement on selection criteria as part of this review for the Summary Approach, the timeframe that Manitoba Hydro provided for comments was not sufficient for meaningful consultation with community members, particularly given the additional stresses on the community at this time. It is unclear if or how consultation with community members on this topic will be supported moving forward.

Similarly, Manitoba Hydro notes that they will seek input on potential parcels of land in Step 3, by sharing parcel information through a password-protected webpage on the existing MMTP Monitoring Committee website (Manitoba Hydro 2020, p 6). This implies that Manitoba Hydro will

place the onus on members of the MMTP Monitoring Committee to inform and engage community members on behalf of Manitoba Hydro, without the provision of time and resources necessary to do so. Sagkeeng does not participate in the activities of the MMTP Monitoring Committee, and it is unclear how we will be engaged in this process.

Sagkeeng recommends a more collaborative process that engages communities and land users directly in the initial identification of criteria and potential land parcels. For example, this could be done through community workshops and/or on-territory site visits jointly led by Manitoba Hydro and Sagkeeng. Such direct engagement is essential for developing appropriate criteria and identifying potential land parcels to properly compensate for impacts to Crown land use associated with the MMTP.

Recommended measure(s): Manitoba Hydro to work with Sagkeeng to develop a collaborative approach for engaging the community directly in the identification of offset criteria and potential land parcels.

Step 4: Parcels will be reviewed by communities, Manitoba Hydro, and municipalities to determine suitability

This step lacks sufficient funding and a clear role for Sagkeeng in the decision-making process. Offset measures should be implemented in a collaborative manner, including community representation in all aspects of decision-making (McDermott and Bell 2017).

While Manitoba Hydro has allocated up to \$15,000 per community to review and comment on potential land parcels, \$5,000 per parcel is not adequate to meet Sagkeeng's requirements for community engagement. Given that engagement needs may vary from one community to the next, based on factors such as community size and protocols, Sagkeeng recommends a more flexible approach. Sagkeeng requests that each community should be able to develop a plan and budget for meaningful engagement, based on their own requirements.

Furthermore, it is unclear in this step if or how Sagkeeng will be engaged the decision-making process and final selection of land parcels. The selection of land parcels must include mechanisms for Sagkeeng's consent to be a part of the process. Sagkeeng requests a meaningful role for leadership in the final selection of parcel lands. Where Sagkeeng's recommendations for land parcel selection are not adopted by Manitoba Hydro, justification and further discussion will be required.

Recommended measure(s): Manitoba Hydro to work with Sagkeeng to develop a community-specific approach for engagement and participation in the selection of land parcels, including a meaningful role for Sagkeeng in the decision-making process.

Step 5: Manitoba will acquire private lands over time

The Summary Approach lacks clear timelines for acquiring private lands, including community engagement in the steps leading to these purchases and the transfer of lands to the Crown. It is critically important that the Crown Land Offset Measures Plan for the MMTP includes adequate time for consultation and collaboration with Sagkeeng prior to the purchase of private lands. This timeline

must balance consultation with timely implementation for ensuring the continuity of traditional practices impacted by the loss of use on Crown lands.

Sagkeeng requests that Manitoba Hydro work with us to develop an appropriate timeline for the purchase of private lands, including adequate time for meaningful community engagement and collaboration.

Recommended measure(s): Manitoba Hydro to work with Sagkeeng to develop a timeline for the purchase of private lands that includes adequate time for meaningful engagement and collaboration.

Step 6: Lands will be transferred to the Crown and withdrawn from disposition.

Manitoba Hydro's proposed approach lacks monitoring and adaptive management measures. These measures are a key component of offset plans (e.g., NGTL 2016; DFO 2019), and essential for ensuring that offsetting is effective.

Offset measures should be re-evaluated over time to ensure that commitments are being met and that the intended function continues to be provided (Wetland Conservation Strategy Advisory Panel 2018). If Sagkeeng is to be confident that proposed offset measures will in fact produce the desired ecological and cultural outcomes, monitoring and adaptive management must be included in the Crown Land Offset Measures Plan.

Sagkeeng reiterates our request for the inclusion of monitoring and adaptive management measures in Manitoba Hydro's Crown Land Offset Measures Plan. This must include indicators and adaptive management responses that reflect Sagkeeng values and perspectives.

Recommended measure(s): Manitoba Hydro to work with Sagkeeng to develop an Indigenous knowledge-based approach for monitoring the effectiveness of offsetting, including:

- a) employment of Sagkeeng cultural experts, knowledge holders, and Guardians in monitoring activities; and
- b) a meaningful role for Sagkeeng in adaptive management decisions.

PRELIMINARY COMMENTS ON CRITERIA FOR SELECTING LANDS

In addition to the initial criteria developed in the Summary Approach, Sagkeeng recommends the following preliminary considerations for the selection of offset lands:

- Impacts to Crown lands Treaty 1 territory must be addressed within Treaty 1 territory.
- Land must be accessible to community members, including consideration of the time and costs required for transportation.
- Lands must provide equivalent (or improved) ecological and cultural functions in consideration of the full range of Indigenous cultural values and interests.
- Lands must provide a space in which alienation from the land is minimized and traditional practices can be carried out undisturbed.

The development of detailed selection criteria should be informed by consultation with community members and a comprehensive traditional land and resource use study for the MMTP. Previous submissions and scoping documents demonstrate that there is a broad range of possible tangible and intangible considerations required to support Sagkeeng land-based activities such as fishing, hunting, rice picking, berry picking, medicine gathering, and trapping (Sagkeeng First Nation 2015, 2018).

Harvesting practices, for example, require confidence that resources are healthy, safe and uncontaminated (Sagkeeng First Nation 2015). Indicators of resource quality may include characteristics of the surrounding environment, as well as the condition of the resource itself. Furthermore, plants, wildlife, and other values must be present in a sufficient abundance to sustain a meaningful harvest. Reduced population numbers and reduced viable habitat, among other factors, can contribute to alienation of Sagkeeng members (Sagkeeng First Nation 2018).

Given that Sagkeeng members engage in multiple practices while out on the land, it will be important that selected areas support a variety of harvesting opportunities and other cultural practices. Certain ecological communities or features may be particularly sought after for these purposes, or in short supply relative to remaining areas of undisturbed Crown land. Without direct community engagement on this topic however, it is difficult to know which areas should be prioritized for the selection of offset lands.

It is important to acknowledge that some criteria require specialized or sensitive knowledge that cannot be shared or may not be conducive to a list (Sagkeeng First Nation 2015). Gathering medicines and other food plants, for example, requires specialized knowledge about where and how to collect them. This knowledge may be held by specific individuals and may not be appropriate to share with Manitoba Hydro. Furthermore, intangible values, such as peaceful enjoyment and sense of place, can be difficult to convey through a list of selection criteria. These considerations emphasize the importance of creating collaborative mechanisms whereby Sagkeeng can identify priority areas and potential land parcels, without disclosing sensitive information.

Sagkeeng stresses the importance of engaging community members directly in the identification of selection criteria and potential land parcels. As noted above, engagement with resource users is critical for understanding where and how land offsets should be purchased for their benefit. Sagkeeng looks forward to working with Manitoba Hydro to develop a collaborative approach for engaging the community directly in the identification of offset criteria and potential land parcels.

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APPENDIX 1. ADEQUACY OF MANITOBA HYDRO'S RESPONSE TO SAGKEENG CONCERNS AND RECOMMENDED MEASURES

A summary of Sagkeeng's concerns and recommendations pertaining to the November 2019 draft offset measure plans the MMTP was provided to Manitoba Hydro in a technical memorandum on April 22, 2020.² The technical memorandum included comments on the November 2019 Draft Crown Land Offset Measures Plan,³ as well as the Draft Wetland Offset Measures Plan and Draft No Net Loss of Wetlands Plan.⁴

Manitoba Hydro responses to comments made on the Draft Crown Land Offset Measures Plan were provided in the Summary of Consultation to Date,⁵ shared with Sagkeeng on June 5, 2020. No response to comments made on the Draft Wetland Offset Measures Plan has been received to date.

The following table summarizes the adequacy of Manitoba Hydro's responses to Sagkeeng concerns shared in reference to the November 2019 Draft Crown Land Offset Measures Plan.

² Sagkeeng First Nation. 2020. "Technical Memorandum: Sagkeeng First Nation Preliminary Comments on the Draft Crown Land and Wetland Offset Measures Plans for the Manitoba-Minnesota Transmission Project."

³ Manitoba Hydro. 2019. "Manitoba-Minnesota Transmission Project Draft Crown Land Offset Measures Plan," 2019.

⁴ Manitoba Hydro. 2019. "Manitoba-Minnesota Transmission Project Draft Wetland Offset Measures Plan And Draft No Net Loss of Wetlands Plan."

⁵ Manitoba Hydro. 2020. "Summary of Consultation to Date Table 1: Communities Included and Communication Log."

Recommended Measures	Manitoba Hydro's Response	Adequacy of response
<p>Concern: Lack of Indigenous engagement and participation. Sagkeeng has concerns that Indigenous consultation to date has been insufficient for our meaningful engagement in the identification of residual project effects and the development of appropriate offset measures. As stewards of our lands and waters, Sagkeeng requests that we are engaged in key aspects of the offset plans, including the</p>		
<p>1. Manitoba Hydro to work with Sagkeeng to provide the time and resources necessary to conduct a comprehensive Traditional Land and Resource Use Study for the Project-affected area, with appropriate methodology and confidentiality agreements.</p>	<p>Sagkeeng First Nation had the opportunity to undertake a TK study and design it as they saw fit. Following conclusion of that study, a supplemental study was completed. The concerns and input provided by Sagkeeng First Nation resulting from that study as well as other engagement has been taken under consideration in the development of this plan.</p>	<p>Insufficiently addressed. Sagkeeng has repeatedly made it clear that the O-Pimatiziwin 2 report represents only a preliminary scoping report and is not sufficient to meet the requirements of a robust traditional land and resource use study (Sagkeeng First Nation 2018, 2015, 2020). Sagkeeng's repeated requests for a traditional land and resource use study for the MMTP remain unaddressed.</p>
<p>2. Manitoba Hydro to revise the governance structure for the Crown land and wetland offset plans to include for meaningful Sagkeeng engagement and participation.</p>	<p>Based on feedback received, the revised plan provides for a land parcel review process. This process not only increases opportunities for Sagkeeng First Nation and other communities to participate, but also allows for participation in key aspects of the process such as putting forward land parcels of interest, reviewing and commenting on proposed land parcels. The approach puts forward a structure that does not have an onerous governance structure but is one that still affords all Indigenous communities the ability to influence the selection criteria, land characteristics and participate in the land parcel review and selection process.</p>	<p>Insufficiently addressed. Manitoba Hydro has identified opportunities for Sagkeeng to provide feedback on offsetting criteria and potential offset parcels for Crown land. Concerns remain about the adequacy of community engagement and the lack of a governance structure that includes a role for Sagkeeng in the decision-making process (please refer to preliminary comments on the Summary Approach).</p>
<p>3. Manitoba Hydro to work with Sagkeeng to develop a collaborative approach to identify criteria for selecting offsetting measures and locations based on Indigenous knowledge, perspectives, and priorities.</p>	<p>Please refer to the response to Recommendation 2</p>	<p>Insufficiently addressed.</p>
<p>4. Manitoba Hydro to employ Sagkeeng cultural experts, knowledge holders, and Guardians in the project team to identify and protect cultural</p>	<p>Manitoba Hydro will consider funding to support reasonable costs to support parcel review but is not anticipating additional costs to employ individual community members. Reasonable costs may</p>	<p>Insufficiently addressed. Manitoba Hydro has not identified a role for Sagkeeng in monitoring or adaptive management actions under the revised Summary Approach.</p>

Recommended Measures	Manitoba Hydro's Response	Adequacy of response
resources and values encountered during construction, rehabilitation, and offsetting.	include honorariums to support knowledge holders/cultural experts in sharing their knowledge and feedback.	
<p>Concern: Underestimation of residual project effects leading to inadequate offsetting area calculation. Sagkeeng has substantial concerns that the offsetting area as calculated will be insufficient to account for long-term impacts to Crown land use and wetland function as a result of the transmission line and maintenance of the new transmission line corridor, including associated impacts to Indigenous rights and interests. This concern arises primarily from an underestimation of residual project effects and the exclusion of indirect and cumulative project effects from offset value calculations. As a result of Manitoba Hydro's minimization of such effects, we have determined that the draft plans have severely underestimated the amount of offset Crown Land and wetlands required. By Sagkeeng's calculation, 457.7 hectares of wetland, and 550 hectares of Crown land (increases of 140,299% and 2,182% respectively) must be offset to meet minimum requirements. Furthermore, the offsetting ratios in the draft Crown land and wetland offset plans are inadequate to support a no net loss objective.</p>		
<p>5. Sagkeeng requests that Manitoba Hydro makes appropriate changes to the Crown land and wetland offset plans to account for residual effects of the transmission line corridor, including overhead transmission lines and maintenance of the ROW. This calculation should include, at a minimum:</p> <ul style="list-style-type: none"> • 457.7 hectares of wetland habitat, representing the area of physical disturbance associated with Project construction, operation, and maintenance that overlaps with sensitive wetland habitat (Manitoba Hydro 2019b, p.10-46) • 550 hectares of Crown land, representing 55 km of transmission line (18 km within existing ROWs and 37 km of new ROW) with a corridor width of 100 m 	<p>Manitoba Hydro is setting dedicated funds to support the development of a Trust to be used to offset lands. The Trust will result in the purchase of at least 96.4 ha of land. This increase in area works to address concerns shared during draft Plan engagement.</p>	<p>Insufficiently addressed. This increase from 24.1 ha to 96.4 ha is not sufficient to offset project impacts to 550 ha of Crown land. Furthermore, this increase in area reflects the application of an offsetting ratio, not a change in the calculation of residual project effects. Offsetting ratios are intended to address uncertainty in the effectiveness of offsetting measures, not to compensate for identified deficiencies in the calculation of residual project effects.</p>
<p>6. Manitoba Hydro to work with Sagkeeng to develop a framework for assessing ecological and cultural components that integrates Indigenous knowledge, science, and the values identified by Sagkeeng community members.</p>	<p>Manitoba Hydro would like to work with Sagkeeng First Nation and other Communities. Manitoba Hydro is seeking input on land selection criteria.</p>	<p>Insufficiently addressed. Manitoba Hydro has identified opportunities to provide feedback on the identification of offsetting criteria, however, this does not constitute a collaborative framework for assessing ecological and cultural values identified by Sagkeeng community members.</p>

Recommended Measures	Manitoba Hydro's Response	Adequacy of response
<p>7. Manitoba Hydro to apply a minimum offsetting ratio of at least 4:1 for Crown lands and wetland habitat, where offsets are of similar ecological and cultural function to the values lost to development.</p>	<p>Manitoba Hydro has accepted Sagkeeng First Nation's comments and has applied a 4:1 multiplier to address uncertainty of effectiveness, indirect and cumulative effects.</p> <p>The measure put forward in this document works alongside other measures already in place, such as routing in existing transmission corridors and away from areas of concern, the development of areas for additional protection such as Environmentally Sensitive Sites and rehabilitation of disturbed areas.</p>	<p>Sagkeeng is prepared to accept the minimum offsetting ratio of at least 4:1 to address uncertainty in the effectiveness of offsetting measures. The application of this ratio does not address deficiencies in the calculation of residual project effects (see recommendation #5). Sagkeeng accepts this minimum offsetting ratio with the understanding that offsets must be of similar or greater ecological and cultural function to the values lost to development.</p>
<p>2. Manitoba Hydro to identify and share for review and comment with Sagkeeng, higher offsetting ratios for locations where equivalency is low and/or uncertainty is high.</p>	<p>Please refer to the response to recommendation #7</p>	<p>Insufficiently addressed. The selected offsetting ratio of 4:1 does not address cases where offsetting equivalency is low.</p>
<p>Concern: Inappropriate offset measures. From Sagkeeng's perspective, a monetary payment to the Province of Manitoba, or a designated agency, is not an appropriate offset measure. This approach does not support Indigenous engagement and participation, nor does it provide Sagkeeng with assurances that offsetting funds will be properly used to maintain, restore or compensate for Sagkeeng rights and interests impacted by the permanent loss of Crown lands and wetland habitat in our traditional and ancestral territories.</p>		
<p>9. Manitoba Hydro to provide Sagkeeng the time and resources necessary to collaboratively develop an offset plan that supports the retention and regaining of ecological and cultural function resembling that of Crown land and wetland habitat permanently impacted by the Project. Sagkeeng engagement in the development of the offset plan should include, but not be limited to identification of appropriate offsetting areas, the selection and implementation of restoration treatments, monitoring of restoration results, and engagement in the development of adaptive management responses.</p>	<p>Manitoba Hydro has provided funding to Sagkeeng First Nation to refer and make recommendations on this Plan. That review process has influenced this approach. We welcome comments on the criteria put forward in this document.</p>	<p>Partially addressed. Sagkeeng acknowledges that Manitoba Hydro has revised offset measures to no longer include a monetary payment to the Province of Manitoba. The opportunity to comment, however, does not constitute collaborative development. Sagkeeng has outstanding concerns regarding the level of community engagement described in this Plan (please refer to comments on the Summary Approach).</p>

Recommended Measures	Manitoba Hydro's Response	Adequacy of response
10. Manitoba Hydro to develop a governance structure for implementation of the offset plan that supports Sagkeeng engagement and participation.	Please refer to the response to Recommendation 2	Insufficiently addressed.
11. Manitoba Hydro to work with Sagkeeng to develop an Indigenous knowledge-based approach to monitoring impacts and offsetting results, including a meaningful role for Sagkeeng in adaptive management decisions.	Manitoba Hydro will consider funding to support reasonable costs to support parcel review, but is not anticipating additional costs to employ individual community members. Reasonable costs may include honorariums to support knowledge holders/cultural experts.	Insufficiently addressed. No monitoring or adaptive management activities have been identified.
12. Manitoba Hydro to identify sufficient funding to cover all costs of long-term management and monitoring, including a role for Sagkeeng Guardians.	Manitoba Hydro will consider funding to support reasonable costs to support parcel review, but is not anticipating additional costs to employ individual community members. Reasonable costs may include honorariums to support knowledge holders/cultural experts.	Insufficiently addressed. No monitoring or adaptive management activities have been identified.

**Manitoba Hydro's July 24, 2020 letter to the Manitoba Metis Federation
(Manitoba Hydro, 2020)**

2020 07 24

Marci Riel, Senior Director
Energy, Infrastructure and Resource Management
Manitoba Metis Federation
300-150 Henry Avenue
Winnipeg, Manitoba R3B 0J7

Dear Ms. Riel:

RE: MANITOBA HYDRO'S CROWN LAND OFFSET MEASURES PLAN FOR MMTP

This letter is in response to the Manitoba Metis Federation's (the "MMF") letter of June 29, 2020 to Jeffrey Betker regarding Manitoba Hydro's draft Crown Land Offset Measures Plan (the "Plan") that must be developed to comply with Condition 22 of the National Energy Board Certificate authorizing the Manitoba-Minnesota Transmission Project ("MMTP" or the "Project"). Manitoba Hydro appreciates the MMF's feedback and provides the following responses to the concerns raised by the MMF regarding the revised approach to the Plan and its development. Manitoba Hydro looks forward to further discussion of any remaining concerns with the MMF.

1) Recognition of Significance of Condition 22

Manitoba Hydro acknowledges the significance of Certificate Condition 22 as a means for providing accommodation to impacted Indigenous communities for the permanent loss of Crown land resulting from the construction and operation of MMTP. Similarly, Manitoba Hydro recognizes the significant role that consultation plays in developing a Plan that best achieves this accommodation. The regulatory requirements imposed on Manitoba Hydro to consult with impacted Indigenous communities regarding the Plan and to address or respond to concerns raised regarding Manitoba Hydro's proposed Plan are clear from the wording of clauses 22(f) and 22(g) of the Condition, as well as the July 2019 letter from the Deputy Minister of Natural Resources Canada referenced by the MMF.

a. Commitment to Consultation

The development of Manitoba Hydro's consultation program for the Plan was informed by the National Energy Board's Reasons for Decision accompanying the draft Certificate which provided guidance regarding the meaning of the term "consultation" as used in the Certificate¹. Manitoba Hydro believes that it has demonstrated its commitment to meaningful consultation regarding the Plan by:

- changing a number of features of the Plan after hearing substantial concerns from

¹ [A95736](#) - November 15, 2018, P. 177, 178)

the MMF and other communities during consultations regarding the first draft (eg. method of calculating the amount of land to be offset);

- filing a request for relief from the timing requirements of the Condition based in part on the need for additional time to consult with impacted communities and the number of concerns raised by communities regarding the first draft of the Plan²; and
- Manitoba Hydro's participatory approach to seeking feedback from communities as the final Plan is developed, as described in more detail below.

b. Accommodation Through Increasing Crown Land

The basis for the MMF's perception that Manitoba Hydro's approach to Condition 22 disregards the significance of Condition 22 in providing accommodation to Indigenous communities is not entirely clear. However, there is a specific concern about the wording of the Summary of Manitoba Hydro's revised approach to the Plan that Manitoba Hydro can respond to. Manitoba Hydro confirms that the private land to be acquired under its proposal is intended to be suitable for the exercise of Aboriginal and Treaty rights, despite the reference in the Summary to such land being "preferred". Manitoba Hydro acknowledges the MMF's concern with this wording and will revise the final Plan to reflect that any land purchased for offsetting will be suitable for the exercise of Aboriginal and Treaty rights, similar to the land that is now occupied by MMTP transmission towers.

Manitoba Hydro assures the MMF that it has no intention of creating a "hollow process" in response to the condition. The primary objective of the revised Plan is to place Indigenous communities in a position, with respect to their practice of Aboriginal and Treaty rights, that is as close as possible to their position prior to MMTP. In response to the MMF's concern, Manitoba Hydro will attempt to revise the land selection criteria in a way that provides more certainty to achieving this goal. As noted in Manitoba Hydro's Summary at page 5, the initial criteria were developed in consultation with impacted communities and Manitoba Hydro will continue to seek their input as the Plan is implemented.

2) The Requirements of Condition 22

a. Requirement to Consult

The MMF believes the Plan to have been developed unilaterally. Manitoba Hydro has previously documented and supported its consultation methods for the Plan in its letter responding to the MMF's February 14th letter raising a concern about consultation with the MMF³. As summarized below, ample consultation opportunities have been offered since that time. Manitoba Hydro has also changed course as a result of feedback from consultations and has worked to facilitate dialogue through multiple opportunities. The final Plan will provide further documentation of Manitoba Hydro's consultations in compliance with Condition 22.

Manitoba Hydro began consultation with the MMF regarding its proposed Plan, as well as its proposed Wetland Offset Measures Plan on November 26, 2019. Both draft Plans were posted online and links to these online plans were included in an email. A summary

² C04289-1 - Manitoba Hydro-Application, January 24, 2020.

³ C05137-1- Manitoba Hydro- Letter to Pres. Chartrand, March 11, 2020

document was also prepared with visuals and a description of the proposed approach provided in non-technical language. Over the following four months (December 2019 to March 2020) Manitoba Hydro sought feedback from the MMF on its initial draft Plans through a variety of mechanisms as outlined below, including letters, phone calls, emails, and through MMTP Monitoring Committee.

December 16, 2019: MMTP Monitoring Committee Meeting (attended by MMF)

At this meeting Manitoba Hydro offered to meet with leadership of each of the Nations involved, including the MMF, to discuss and receive feedback on the draft Plans. To facilitate review of the draft plans, Manitoba Hydro offered to provide an honorarium to those individuals reviewing and providing feedback on the drafts.

December 19, 2019: Manitoba Hydro Email to the MMF Regarding Work Plan and Budget

In response to an email from the MMF expressing concerns about the draft Plan and engagement, Manitoba Hydro sent a response asking the MMF to provide further detail outlining the scope of its proposed review activities and a detailed budget for the proposed work.

February 14, 2020: MMF Comment Letter

MMF provided comments on Manitoba Hydro's draft plans for Condition 22 and 26. No scope of work and budget to facilitate review of the draft plan was provided.

March 11, 2020: Manitoba Hydro Response Letter

Manitoba Hydro responded to MMF's concerns regarding the Plan and again requested documentation to support the MMF's proposed review.

March 16, 2020: Manitoba Hydro Email Regarding Workplan and Budget

Manitoba Hydro sent a follow-up email to its March 11 letter outlining in detail how budget costs should be broken down and requesting further detailed in a Budget.

April 22, 2020: MMF submitted a budget and workplan for MMTP Condition 22 and 26 Plan Review.

May 7, 2020: Manitoba Hydro Email to the MMF

Manitoba Hydro outlined some concerns with the proposed workplan and budget and advised the MMF that a revised Plan would soon be available for review.

June 5, 2020: Manitoba Hydro Revised Approach to Plan

In response to concerns shared by the MMF and others, a revised approach to the Plan and consultation regarding the Plan was distributed. The revised approach attempts to address many of the MMFs concerns, including those regarding:

- consultation on the draft Plan;
- calculation of the permanent loss of Crown land available for traditional use;
- enforceability of the proposed measure to offset permanent loss of Crown land;
- the required offset or compensation benefitting the provincial Crown;

- adoption of a “pan-Indigenous” approach, to be implemented by the Manitoba Government, that does not correlate to the MMTP’s specific impacts on the Manitoba Metis Community; and
- consultation through the MMTP Monitoring Committee rather than directly with the MMF.

MH shared a Summary document outlining a broad concept for a revised approach to meeting Condition 22 and inviting comments by July 15, 2020. MH developed a more collaborative method for revising the Plan. Rather than sharing a completed revised Plan, MH sought to have interested communities help shape the revised Plan. The intention was not to withhold necessary details, as suggested by the MMF.

June 17, 2020: Manitoba Hydro Discussion Forum

Manitoba Hydro invited discussion on the revised approach. MMF representatives participated in this Discussion Forum. The intent was to adopt an inclusive approach to drafting the final draft Plan by gauging preferences and seeking to understand preliminary concerns. The preferences and concerns are intended to shape the final draft Plan.

July 29- August 21, 2020: Review of Revised Plan

The MMF has expressed concern regarding the short timeframe for review of the revised Plan. However, Manitoba Hydro considers the review time to be reasonable given regulatory deadlines, the anticipated length and complexity of the document and considering that a Summary document has already been circulated, a presentation describing the proposed approach was provided, and alternative dates were not put forward by the MMF.

b. Estimated Effectiveness, Schedule, Completion Dates

Manitoba Hydro fully intends to outline the expected effectiveness, schedule and estimated completion dates in its final Plan, as required by Condition 22. It is unclear why the MMF believes that it is impossible for Manitoba Hydro to comply with these requirements. Concerns regarding specific aspects of the proposed Plan's effectiveness are addressed below.

(i) Adequacy of Funds for Purchase of Offsetting Land

Manitoba Hydro has extensive experience in land acquisition costs in the Project area and believes it has reasonably estimated the cost to purchase 96.4 ha of land (i.e. 24.1ha of lost area with a multiplier of 4) to offset the permanently lost Crown land. The MMF has identified a concern regarding the potential erosion of funds that can be used specifically for the purchase of offsetting lands. Manitoba Hydro acknowledges it may not have been clear from the Summary that the \$500,219.00 that is designated for land acquisition (p.5 of Summary) will be protected against erosion by administering the portion of the fund designated for land acquisition separately from the portion designated for consultation and by placing limits on reimbursement costs. Manitoba Hydro will attempt to address this concern through clarifications in the final Plan regarding how the trust fund is to be managed.

Manitoba Hydro also clarifies that the Plan will not be considered implemented until 96.4 ha of land has been acquired (p. 4,5 of Summary). If purchase costs exceed the amount that has been made available, Manitoba Hydro will supplement the fund accordingly. These issues will also be clarified in the final Plan.

(ii) Role of Municipalities in Land Selection

The MMF also expresses a concern regarding Manitoba Hydro's plan to consult with municipalities during the land selection process. Unfortunately, the MMF has misunderstood the purpose of this consultation. The intention is not to give municipalities a veto right over land selection, but to obtain information on the potential future use of adjacent land that may impact the suitability of the parcel being considered for exercising traditional rights. During consultations with the MMF, Manitoba Hydro has heard the concern that land development, such as an industrial park or waste facility, may adversely impact the exercise of traditional rights by the Metis community on the selected parcel. Municipalities' input will be considered by Manitoba Hydro but will not form part of the land selection criteria as described in step 2 of the Summary. In order to address this concern, more detail about the consultation will be provided in the final Plan.

(iii) Risk of Future Disposition of Crown Land

As stated above, the Plan's overall objective is to place impacted Indigenous communities in as comparable a position as possible to the position they were in prior to MMTP in terms of their ability to exercise traditional rights in the Project area. Accordingly, Manitoba Hydro's proposal is to create additional Provincial Crown land for the exercise of traditional rights by Indigenous communities in order to compensate for the permanent loss of Provincial Crown land on which portions of the Project are located. This can only be accomplished with involvement from the Province of Manitoba. Just as is the case with existing Provincial Crown lands that are currently used by Indigenous communities for the exercise of traditional rights, the future disposition of land acquired under the Plan will be subject to the provisions of The Crown Lands Act⁴. Manitoba Hydro recognizes the MMF's concern that the Province may ultimately dispose of the Crown land at some point in the future, however there are ways to mitigate this risk which Manitoba Hydro intends to pursue in its written arrangement with the Province. Such safeguards may include requiring the Province to obtain an Order in Council withdrawing the land from disposition, describing the purpose of the withdrawal in the Order in Council pursuant to section 5(3) of the Crown Lands Act, and a contractual remedy in the event of future disposition by the Province.

(iv) Title to Offsetting Land

Manitoba Hydro does not agree that title to the land acquired by the Plan must be held by either the communities or the federal Crown simply because the Certificate was issued by a federal entity. The type of accommodation should relate to the nature of the impact, rather than the level of government agency making the decision regarding a project. Since MMTP only affects Provincial Crown land, it is appropriate to offset this loss with additional Provincial Crown land. In its consultations with Natural Resources Canada ("NRCan") on the draft Plan, Manitoba Hydro has not received any comments suggesting that the offsetting

⁴ CCSM c. C340

land should be transferred to the federal Crown instead of the Province. Nevertheless, Manitoba Hydro will discuss this issue with NRCan and review whether title being held by Canada reduces the risk of future disposition.

Manitoba Hydro has also heard from many communities that any offsetting land that is acquired should be available for use by all impacted Indigenous communities. Having individual communities hold title to different parcels of offsetting land would conflict with this preference.

3) Basis for Offsetting Proposal and Consistency with NEB Findings/Requirements

a. Support for Offsetting

Manitoba Hydro disagrees with the MMF's claim that the Plan was developed unilaterally (as explained above) and with the potential implication that the proposal to offset rather than provide compensation is lacking a sound basis. Manitoba Hydro considers offsetting to be a more effective measure than compensation based on feedback received from Indigenous communities regarding the Project and environmental assessment principles.

(i) Community Feedback

Manitoba Hydro heard from Indigenous groups throughout engagement and regulatory review of the Project that lands available for practicing rights-based activities is limited in southern Manitoba, and that there is a preference for replacement. The following quote from testimony at the provincial hearing for MMTP illustrates this preference: "I would like to say that we are going to push for a zero loss. If you take an acre, we would like to see that acre replaced. Replace even more -- two acres, three acres, four acres, five acres..."⁵

Dr. Niigaan Sinclair on behalf of Peguis First Nation shared the following perspective on the importance of land at the NEB hearing for MMTP: "Our relationship with our land is really what we are talking about today in all of these different testimonies that you're being presented with. They are fundamental to our identity and, most importantly, they are how we live."⁶

(ii) Environmental Assessment Principles

The 'Mitigation Hierarchy' is a key principle used in environmental assessment that provides an ordered approach for addressing potential environmental impacts. This hierarchy of approaches, in descending order of preference, is generally: avoidance, on-site minimization or mitigation, rehabilitation or restoration, offsetting and finally compensation⁷. Essentially this means that avoiding adverse effects altogether is better than minimizing them, minimizing effects is better than rehabilitation, restoration or offsetting and all these measures are better than providing compensation. The mitigation hierarchy discourages the use of compensation as it is viewed as a way for proponents to purchase a license to damage the environment.

⁵ Gord Bluesky. Page 3060. May 29, 2017. Volume 13. MMTP CEC Hearing Transcript.

⁶ Dr. Niigaan Sinclair, 502-503 PDF Page 32 June 6, 2018 Volume 3 NEB hearing transcript.

⁷ Driedzic, 2016. Buying a better environment?: Market-based instruments & the Alberta Land Stewardship Act; [Volume 3](#)

Manitoba Hydro contemplated compensation to individual communities initially and considered it less effective as a mechanism for the reasons described above and because allocating funds to spend on purchasing lands would result in an outcome that more closely mitigates for Project effects where newly established Crown lands will create area of land that can be used by Indigenous peoples for traditional use. The benefit of these newly created Crown lands is expected to last in perpetuity.

(iii) Offsetting Benefits Communities

Manitoba Hydro confirms that, in compliance with Condition 22, it has consulted with the Province of Manitoba ("Province") on Manitoba Hydro's proposed approach. However, Manitoba Hydro has not been "unduly swayed and influenced" by the Province. Nor is the Province by any means the sole beneficiary of the Plan. The proposed written arrangement with the Province for land transfers is intended to require all transferred lands to be designated for the benefit of Indigenous communities and, as discussed above, protected to the extent possible from future disposition.

b. Consistency with NEB Findings and Requirements

With respect to the MMF's concern that Manitoba Hydro's proposed approach ignores an NEB finding, Manitoba Hydro clarifies that the statement quoted by the MMF refers specifically to "Crown" land of a certain type being in short supply, not private land. Accordingly, Manitoba Hydro is of the view that its proposed Plan directly responds to this finding by attempting to create more Crown land suitable for exercising traditional rights, rather than disregarding the NEB's finding.

While Condition 22 requires the Crown Land Offset Measures Plan to include a "list of the offset or compensation measures" proposed, Manitoba Hydro does not interpret this wording as precluding the proposal of only one type of offset. The term "measure" is undefined. Accordingly, the purchase of each parcel of private land which is then designated as Crown land could be interpreted as an individual measure. If so, the Plan proposes the purchase of several parcels and therefore several measures. Moreover, Manitoba Hydro believes that the wording of the condition should be interpreted consistent with its purpose. In developing its Plan Manitoba Hydro focused on the best means of achieving the purpose of the Plan, which in the case of MMTP is to compensate for the loss of permanent Provincial Crown land that has been used by various Indigenous communities to a similar extent for the exercise of traditional rights. In Manitoba Hydro's view, the most effective means of addressing this loss is to create more Provincial Crown land that is suitable for use by all impacted Indigenous communities alike. This type of approach is inconsistent with the development of alternatives that can be elected by individual communities.

Next Steps

Manitoba Hydro remains willing to meet with MMF leadership to further discuss concerns expressed in the MMF's June 29, 2020 letter. We are expediting review of the July 23rd, 2020 engagement workplan and budget. Thank you for the re submission. The work plan

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includes a proposal to meet with Manitoba Hydro. Please let me know if the MMF is interested in meeting and of the MMF's availability on the following dates: July 30, 31 or August 4.

Yours truly,

A handwritten signature in cursive script that reads "James Matthewson".

James Matthewson, Acting Manager
Licensing and Environmental Assessment
360 Portage Ave (5)
Winnipeg, MB R3C 0G8

cc President David Chartrand and MMF Cabinet
Sebastien Labelle, Director General, Natural Resources Canada

Response was received on July 30, 2020 from Sebastien Labelle, Director General, Major Projects Management Office, Natural Resources Canada



Natural Resources
Canada

Ressources naturelles
Canada

July 30, 2020

Sarah Coughlin
Licensing and Environmental Assessment Department
Manitoba Hydro
360 Portage Avenue
Winnipeg, MB, R3C 0G8

Subject: Manitoba-Minnesota Transmission Project – Revised Crown Land Offset Measures Plan

Dear Ms. Coughlin,

Thank you for your letter dated June 9, 2020 regarding Manitoba Hydro's revised Crown Land Offset Measures Plan for the Manitoba-Minnesota Transmission Project. I appreciate Manitoba Hydro providing Natural Resources Canada (NRCan) the opportunity to review and comment on the revised plan.

NRCan's views remain the same as outlined in its January 10, 2020 letter. Specifically, that the Government of Canada is relying on Manitoba Hydro's compliance with Canada Energy Regulator (CER) Condition 22 to accommodate potential impacts to Indigenous groups' Aboriginal and Treaty Rights and that the CER will determine whether Manitoba Hydro's revised Crown Land Offset Measures Plan complies with the criteria set out in Condition 22. NRCan also expects that lands acquired to comply with Condition 22 will be suitable for the exercise of potentially impacted Indigenous groups' Aboriginal and Treaty rights.

Sincerely,

Sebastien Labelle
Director General
Major Projects Management Office
Natural Resources Canada

Sagkeeng First Nation with Firelight Research Inc's August 17, 2020 Preliminary Comments on the Draft Final Crown Land Offset Measures Plan for the Manitoba-Minnesota Transmission Project (Sagkeeng First Nation with Firelight Research Inc., 2020)



Sagkeeng Anicinabe

TECHNICAL MEMORANDUM

Sagkeeng First Nation Preliminary Comments on the Draft Final Crown Land Offset Measures Plan for the Manitoba-Minnesota Transmission Project

Prepared By: Sagkeeng First Nation with Firelight Research Inc.

Submitted To: Sarah Coughlin, Senior Environmental Specialist, Manitoba Hydro

Date: August 17, 2020

Dear Sarah Coughlin,

Please find enclosed Sagkeeng First Nation's (Sagkeeng) initial comments on the *Draft Final Plan Crown Land Offset Measures Plan* (the draft final Plan) for the Manitoba-Minnesota Transmission Project (MMTP).

The draft final Plan represents a revision of the November 2019 *Draft Crown Land Offset Measures Plan* (Manitoba Hydro 2019), based on comments made by Sagkeeng and other communities with respect to the November 2019 draft plan and the June 5, 2020, summary document *A Revised Approach for a Crown Land Offset Measures Plan* (Manitoba Hydro 2020a).

The concerns expressed in this memo are consistent with concerns documented in previous submissions made by Sagkeeng, which have not been sufficiently addressed to date. Appendix 1 of the attachment summarizes the adequacy of Manitoba Hydro's responses to Sagkeeng's initial memo on the November 2019 draft Plan (Sagkeeng First Nation 2020a), and subsequent submission on the summary document (Sagkeeng First Nation 2020b). These submissions included recommendations for appropriate offset measures, the majority of which have not been adopted in the draft final Plan.

Outstanding concerns with the draft final Plan include:

- 1. An inadequate offsetting area:** Manitoba Hydro's proposed approach fails to account for the loss of use associated with the Right of Way and overhead transmission lines, as identified in previous comments submitted by Sagkeeng. As a result, the final draft Plan has severely underestimated the amount of land required to offset Project effects to the use of Crown lands. By Sagkeeng's calculation, 550 hectares of Crown land must be offset to meet minimum requirements at a 1:1 offset ratio, representing a 2,182% increase over the 24.1 ha of permanent Crown land loss identified in the final draft Plan, and a 470% increase over the 96.4 ha of offset lands to be purchased (which includes a 4:1 offsetting ratio to account for uncertainty). Sagkeeng has shared recommended changes to the offsetting area in technical memorandums submitted to Manitoba Hydro with regards to both the November 2019 draft plan (Sagkeeng First Nation 2020a), and the June 2020 summary document (Sagkeeng First Nation 2020b).

- 2. Insufficient community engagement and participation:** Sagkeeng has expressed concerns in multiple submissions that consultation to date and proposed processes in the offset plan are insufficient for our meaningful engagement in the selection of appropriate offset areas. These concerns arise due to:
- a. The lack of baseline data from a fulsome Traditional Land and Resource Use Study;
 - b. Insufficient community engagement in criteria development for the identification of potential land parcels;
 - c. Insufficient provision of time and resources for community input in parcel selection; and
 - d. The lack of Indigenous representation in the decision-making process.

Sagkeeng has shared recommended measures to address these concerns in previous comments submitted to Manitoba Hydro, which have not been adopted in the draft final Plan.

- 3. Insufficient monitoring and adaptive management:** Monitoring and reporting activities outlined in the draft final Plan lack meaningful community engagement, adaptive management actions, and Indigenous representation in management decisions. Throughout previous submissions, Sagkeeng has provided recommended measures for a monitoring and adaptive management program that involves Sagkeeng cultural experts, knowledge holders, and Guardians in monitoring activities, as well as a meaningful role for Sagkeeng in adaptive management decisions. These recommendations have not been adopted in the draft final Plan.

As noted in previous submissions, Sagkeeng's recommended measures are critical to filling gaps in the Crown Land Offset Measures Plan for the MMTP. It is Sagkeeng's expectation that these recommended measures will be adopted by Manitoba Hydro. Where Manitoba Hydro has opted not to adopt these measures, Sagkeeng requires written justification and additional direct consultation toward an appropriate solution.

The measures currently outlined in the draft final Plan are insufficient to adequately offset project effects to Crown land use. Sagkeeng expects further engagement with Manitoba Hydro on the development of a fulsome approach to offsetting the permanent loss of use for Crown Land areas within Treaty 1 territory. We look forward to Manitoba Hydro contacting us to engage in these critical conversations.

Meegwetch,

ORIGINAL SIGNED

Chief Derrick Henderson

Sagkeeng Anicinabe Government

CC: Louise George, Secretary of the Canada Energy Regulator

Attachment: Sagkeeng Preliminary Comments on the Revised Summary Approach for a Crown Land Offset Measures Plan for the MMTP

PRELIMINARY COMMENTS ON THE DRAFT FINAL CROWN LAND OFFSET MEASURE PLAN FOR THE MMTP

SAGKEENG FIRST NATION

BACKGROUND

The Manitoba to Minnesota Transmission Project (MMTP) is a 213 km transmission line that intersects the traditional and ancestral territories of Sagkeeng First Nation (Sagkeeng). The transmission line corridor overlaps with 55 linear kilometers of Crown land and includes the creation of a new Right of Way (ROW) from south of Anola to the Manitoba-Minnesota border.

Crown lands are integral to supporting the connection between Sagkeeng identity and continued practice of land-based activities such as fishing, hunting, rice picking, berry picking, medicine gathering, and trapping (Sagkeeng First Nation 2020a). Given the widespread alienation from the land base by privatization, industrialization and other land fragmentation, Crown lands are effectively the only lands left for Sagkeeng to engage in these cultural practices (Sagkeeng First Nation 2018).

Treaty 1 rights potentially impacted by the MMTP include but are not limited to hunting, fishing, and gathering for sustenance and livelihood purposes (Sagkeeng First Nation 2018). Direct and indirect impacts associated with the Project on these rights will come from reduction in available land that support meaningful Treaty rights practices, loss of habitat for wildlife and food and medicinal plants, alienation due to visual and other sensory alterations of the ROW, and concerns about contamination, among other factors (Sagkeeng First Nation 2018).

As a condition of the Certificate of Public Convenience and Necessity EC-059 for construction of the MMTP, Manitoba Hydro is required to consult with Indigenous communities to develop a Crown Land Offset Measures Plan (Condition 22). This plan must outline how the loss of Crown land for traditional use by Indigenous peoples will be offset or compensated for by Manitoba Hydro.

A Draft Crown Land Offset Measures Plan was presented by Manitoba Hydro in November 2019 (Manitoba Hydro 2019). Sagkeeng expressed substantial concerns regarding Manitoba Hydro's characterization of project impacts to Crown land use, as well as the inadequacies of the November 2019 draft Plan. Sagkeeng's concerns were submitted to Manitoba Hydro in a technical memorandum on April 22, 2020 (Sagkeeng First Nation 2020a). These concerns included:

- 1) a lack of Indigenous engagement;
- 2) a severe underestimation of residual project effects leading to an inadequate offsetting area; and
- 3) the use of an inappropriate offset measure.

In response to the feedback received from Sagkeeng, and other Indigenous communities, Manitoba Hydro developed a revised approach for the Crown Land Offset Measures Plan. An outline of this plan was shared with Sagkeeng as a summary document for discussion on June 5, 2020 (Manitoba Hydro 2020a). While the revised approach included important changes (e.g. the creation of a Trust for land offsetting and the application of a 4:1 offsetting ratio), the majority of Sagkeeng's concerns were not adequately addressed. Concerns with the revised approach were summarized and shared with Manitoba Hydro in a technical memorandum on June 15, 2020 (Sagkeeng First Nation 2020b). These included:

- 1) the lack of a comprehensive traditional land and resource use study;
- 2) an underestimation of the Trust contribution required to ensure effective offsetting for impacts to Indigenous Crown land use;
- 3) unclear and insufficiently resourced mechanisms for community input in the identification of selection criteria and potential land parcels;
- 4) a lack of Indigenous representation in the decision-making process for selection of land parcels;
- 5) the absence of a timeline for the purchase of Crown lands; and
- 6) a lack of monitoring and adaptive management.

Appendix 1 of this document summarizes the adequacy of Manitoba Hydro's responses to Sagkeeng's previous comments and recommended measures. In the section below, Sagkeeng provides a summary of key outstanding concerns pertaining to the draft final Plan and inadequacies in proposed offset measures for the MMTP.

PRELIMINARY COMMENTS ON THE DRAFT FINAL PLAN

1. Inadequate Offsetting Area

Despite concerns expressed in Sagkeeng's previous submissions pertaining to the Crown Land Offset Plan, Manitoba Hydro continues to assume that Crown land use will be unaffected beyond the immediate footprint of each tower foundation and converter station. Previous submissions from Sagkeeng have clearly demonstrated loss of use associated with ROW clearing and maintenance, as well as the presence of overhead transmission lines (Sagkeeng First Nation 2015, 2018, 2020a, 2020b).

Any portion of the Project that crosses Crown lands inevitably contributes to (already significant) land alienation experienced by Sagkeeng community members, reducing the area of viable territory within which to practice their Treaty rights (Sagkeeng First Nation 2018). Sagkeeng community members who harvest medicines and other plants, for example, advise that they will not harvest from under a transmission line as plants under a transmission line are "considered unhealthy because of the EMF created by the transmission lines and because chemicals are used to keep the right of way clear" (Sagkeeng First Nation 2015, p. 14).

Clearing and maintenance of the ROW also represents long-term alteration of important forested habitat, where Sagkeeng community members hunt and trap (Sagkeeng First Nation 2015). Linear features have well-documented effects on culturally important species, such as moose, including increased hunting and predation pressure (GOABC 2016; Beazley et al. 2004; Davis 2012). ROW maintenance can also lead to the formation of different plant associations

(Thibodeau and Nickerson 1986), with potential adverse implications for Sagkeeng harvesting practices and food security.

Furthermore, Sagkeeng finds it profoundly concerning that Manitoba Hydro's offset area for impacts to Crown land use pales in comparison to MMTP compensation practices for private landowners. Private landowners are compensated for the entirety of lands impacted by the Project, including the full length and width of the ROW.¹ Land compensation for this area is paid on the current land values and escalated to 150 percent of fair market value. Sagkeeng finds it disrespectful that Manitoba Hydro refuses to acknowledge and offset impacts to Crown lands and Treaty rights with a similar level of recognition and respect.

Sagkeeng reiterates our request that Manitoba Hydro revise the Crown land offset plan to account for loss of use within the transmission line corridor, including the overhead transmission lines and maintenance of the ROW. At a minimum, this calculation should include 550 hectares (1,359 acres) of Crown land, representing 55 km of transmission line with a corridor of 100 m. This represents a 183.2% difference (or 2,182% increase) compared to the 24.1 hectares (59.6 acres) of permanent Crown land loss identified by Manitoba Hydro in the Summary Approach. These impacts are not sufficiently addressed by Manitoba Hydro's application of a 4:1 offset ratio to account for uncertainty in offset effectiveness, which yields a 96.4 ha (238 acre) consideration for offsetting.

2. *Insufficient community engagement and participation*

Sagkeeng has repeatedly expressed concerns that proposed consultation in the draft Plan is insufficient for our meaningful engagement in the characterization of project effects and the development of corresponding offset measures. Engagement with resource users is critical for understanding where the offsetting should happen to ensure that they provide the intended benefits. Sagkeeng's outstanding concerns pertaining to a lack of community engagement and participation in the draft final Plan, include:

- a) Lack of a comprehensive traditional land and resource use study:** A robust baseline assessment of traditional land use and values represents a critical component of the mitigation hierarchy, currently lacking from Manitoba Hydro's proposed approach for Crown land offsetting measures. When community engagement is initiated early, these studies can inform project design, such as transmission line routing, and contribute to the development of appropriate mitigation measures (Energy and Mines 2014). Where impacts cannot be avoided by project design or mitigation, a thorough baseline assessment provides valuable information about the affected cultural functions or values for which offsetting must occur (McDermott and Bell 2017). Despite Sagkeeng's repeated requests for a fulsome traditional land and resource use study to inform Crown Land offsets for the MMTP, this recommended measure has not been adopted in the draft final Plan.
- b) Insufficient community engagement in criteria development for the identification of potential land parcels:** The mechanism for Sagkeeng input in the development of offset criteria remains unclear and insufficiently resourced in the draft final Plan.

¹ Manitoba-Minnesota Transmission Project Landowner Compensation Information. Accessed July 10, 2020: https://www.hydro.mb.ca/docs/regulatory_affairs/projects/mmtp/mmtp_landowner_compensation_brochure.pdf

Previous submissions and scoping documents demonstrate that there is a broad range of possible tangible and intangible criteria required to support Sagkeeng land-based activities such as fishing, hunting, rice picking, berry picking, medicine gathering, and trapping (Sagkeeng First Nation 2015, 2018, 2020b). The cultural practices and ecological knowledge of Sagkeeng community members offer critically important insights to the offset process, a fact about Indigenous knowledge recognized in other jurisdictions (Poulton 2018). Despite these considerations, Sagkeeng's recommendations for a more collaborative process that engages communities and land users directly in the identification of criteria and potential land parcels have not been adopted in the draft final Plan.

- c) Insufficient provision of time and resources for community input in parcel selection:** Manitoba Hydro has identified up to \$15,000 total per community to review and comment on up to three land parcels (\$5,000 per parcel). As identified in Sagkeeng's previous submission, \$5,000 per parcel is not adequate to meet Sagkeeng's requirements for community engagement (Sagkeeng First Nation 2020b). This concern is compounded by the short timeline for community input (7 days) identified in the draft final plan. Sagkeeng's recommendations for a more flexible budget and timeline, based on factors such as community protocols and size, have not been included in the draft final plan.
- d) Lack of Indigenous representation in the decision-making process:** The selection of land parcels must include mechanisms for Sagkeeng's consent as part of the process. This is particularly critical for the MMTP Crown land offset plan, given a lack of sufficient baseline data collection and engagement in early planning and mitigation stages of the Project. Sagkeeng's recommended measures for engaging leadership in the final selection of parcel lands have not been adopted in the draft final plan.

3. Insufficient monitoring and adaptive management

Manitoba Hydro's proposed approach for monitoring and reporting lacks meaningful community engagement, adaptive management actions, and Indigenous representation in management decisions. Evaluation of the extent to which Indigenous communities are using the purchased lands, for example, will not occur until after all parcels have been purchased (Manitoba Hydro 2020b, p. 20). Such assessments should occur early and regularly to allow for adaptive responses and management decisions where offsets are not obtaining the desired results. This must include the selection of indicators and the development of adaptive management triggers that reflect Sagkeeng values and perspectives.

In previous submissions to Manitoba Hydro, Sagkeeng has recommended the development of an Indigenous knowledge-based approach for monitoring, including a role for Sagkeeng cultural experts, knowledge holders, and Guardians. Sagkeeng has also identified the importance of engaging Sagkeeng leadership in adaptive management processes and decisions. These recommendations have not been adopted in the draft final plan.

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APPENDIX 1. ADEQUACY OF MANITOBA HYDRO'S RESPONSE TO SAGKEENG CONCERNS AND RECOMMENDED MEASURES

A1.1 November 2019 Draft Crown Land Offset Measures Plan

A summary of Sagkeeng's concerns and recommendations pertaining to the November 2019 draft offset measure plans the MMTP was provided to Manitoba Hydro in a technical memorandum on April 22, 2020.² The technical memorandum included comments on the November 2019 draft Crown Land Offset Measures Plan,³ as well as the draft Wetland Offset Measures Plan and draft No Net Loss of Wetlands Plan.⁴

Manitoba Hydro responses to comments made on the draft Crown Land Offset Measures Plan were provided in the Summary of Consultation to Date,⁵ shared with Sagkeeng on June 5, 2020. No response to comments made on the draft Wetland Offset Measures Plan has been received to date.

Table A1.1 summarizes the adequacy of Manitoba Hydro's responses to Sagkeeng concerns shared in reference to the November 2019 Draft Crown Land Offset Measures Plan.

² Sagkeeng First Nation. 2020. "Technical Memorandum: Sagkeeng First Nation Preliminary Comments on the Draft Crown Land and Wetland Offset Measures Plans for the Manitoba-Minnesota Transmission Project."

³ Manitoba Hydro. 2019. "Manitoba-Minnesota Transmission Project Draft Crown Land Offset Measures Plan," 2019.

⁴ Manitoba Hydro. 2019. "Manitoba-Minnesota Transmission Project Draft Wetland Offset Measures Plan And Draft No Net Loss of Wetlands Plan."

⁵ Manitoba Hydro. 2020. "Summary of Consultation to Date Table 1: Communities Included and Communication Log."

Table A1.1 Adequacy of Manitoba Hydro's responses to Sagkeeng concerns shared in reference to the November 2019 Draft Crown Land Offset Measures Plan

Recommended Measures	Manitoba Hydro's Response	Adequacy of response
<p>Concern: Lack of Indigenous engagement and participation. Sagkeeng has concerns that Indigenous consultation to date has been insufficient for our meaningful engagement in the identification of residual project effects and the development of appropriate offset measures. As stewards of our lands and waters, Sagkeeng requests that we are engaged in key aspects of the offset plans, including the</p>		
<p>1. Manitoba Hydro to work with Sagkeeng to provide the time and resources necessary to conduct a comprehensive Traditional Land and Resource Use Study for the Project-affected area, with appropriate methodology and confidentiality agreements.</p>	<p>Sagkeeng First Nation had the opportunity to undertake a TK study and design it as they saw fit. Following conclusion of that study, a supplemental study was completed. The concerns and input provided by Sagkeeng First Nation resulting from that study as well as other engagement has been taken under consideration in the development of this plan.</p>	<p>Insufficiently addressed. Sagkeeng has repeatedly made it clear that the O-Pimatziwin 2 report represents only a preliminary scoping report and is not sufficient to meet the requirements of a robust traditional land and resource use study (Sagkeeng First Nation 2018, 2015, 2020). Sagkeeng's repeated requests for a traditional land and resource use study for the MMTP remain unaddressed.</p>
<p>2. Manitoba Hydro to revise the governance structure for the Crown land and wetland offset plans to include for meaningful Sagkeeng engagement and participation.</p>	<p>Based on feedback received, the revised plan provides for a land parcel review process. This process not only increases opportunities for Sagkeeng First Nation and other communities to participate, but also allows for participation in key aspects of the process such as putting forward land parcels of interest, reviewing and commenting on proposed land parcels. The approach puts forward a structure that does not have an onerous governance structure but is one that still affords all Indigenous communities the ability to influence the selection criteria, land characteristics and participate in the land parcel review and selection process.</p>	<p>Insufficiently addressed. Manitoba Hydro has identified opportunities for Sagkeeng to provide feedback on offsetting criteria and potential offset parcels for Crown land. Concerns remain about the adequacy of community engagement and the lack of a governance structure that includes a role for Sagkeeng in the decision-making process (please refer to preliminary comments on the Summary Approach).</p>
<p>3. Manitoba Hydro to work with Sagkeeng to develop a collaborative approach to identify criteria for selecting offsetting measures and locations based on Indigenous knowledge, perspectives, and priorities.</p>	<p>Please refer to the response to Recommendation 2</p>	<p>Insufficiently addressed.</p>
<p>4. Manitoba Hydro to employ Sagkeeng cultural experts, knowledge holders, and Guardians in the project team to identify and protect cultural resources and values</p>	<p>Manitoba Hydro will consider funding to support reasonable costs to support parcel review but is not anticipating additional costs to employ individual community members. Reasonable costs may include honorariums to support</p>	<p>Insufficiently addressed. Manitoba Hydro has not identified a role for Sagkeeng in monitoring or adaptive management</p>

Recommended Measures	Manitoba Hydro's Response	Adequacy of response
<p>encountered during construction, rehabilitation, and offsetting.</p>	<p>knowledge holders/cultural experts in sharing their knowledge and feedback.</p>	<p>actions under the revised Summary Approach.</p>
<p>Concern: Underestimation of residual project effects leading to inadequate offsetting area calculation. Sagkeeng has substantial concerns that the offsetting area as calculated will be insufficient to account for long-term impacts to Crown land use and wetland function as a result of the transmission line and maintenance of the new transmission line corridor, including associated impacts to Indigenous rights and interests. This concern arises primarily from an underestimation of residual project effects and the exclusion of indirect and cumulative project effects from offset value calculations. As a result of Manitoba Hydro’s minimization of such effects, we have determined that the draft plans have severely underestimated the amount of offset Crown Land and wetlands required. By Sagkeeng’s calculation, 457.7 hectares of wetland, and 550 hectares of Crown land (increases of 140,299% and 2,182% respectively) must be offset to meet minimum requirements. Furthermore, the offsetting ratios in the draft Crown land and wetland offset plans are inadequate to support a no net loss objective.</p>		
<p>5. Sagkeeng requests that Manitoba Hydro makes appropriate changes to the Crown land and wetland offset plans to account for residual effects of the transmission line corridor, including overhead transmission lines and maintenance of the ROW. This calculation should include, at a minimum:</p> <ul style="list-style-type: none"> • 457.7 hectares of wetland habitat, representing the area of physical disturbance associated with Project construction, operation, and maintenance that overlaps with sensitive wetland habitat (Manitoba Hydro 2019b, p.10-46) • 550 hectares of Crown land, representing 55 km of transmission line (18 km within existing ROWs and 37 km of new ROW) with a corridor width of 100 m 	<p>Manitoba Hydro is setting dedicated funds to support the development of a Trust to be used to offset lands. The Trust will result in the purchase of at least 96.4 ha of land. This increase in area works to address concerns shared during draft Plan engagement.</p>	<p>Insufficiently addressed. This increase from 24.1 ha to 96.4 ha is not sufficient to offset project impacts to 550 ha of Crown land. Furthermore, this increase in area reflects the application of an offsetting ratio, not a change in the calculation of residual project effects. Offsetting ratios are intended to address uncertainty in the effectiveness of offsetting measures, not to compensate for identified deficiencies in the calculation of residual project effects.</p>
<p>6. Manitoba Hydro to work with Sagkeeng to develop a framework for assessing ecological and cultural components that integrates Indigenous knowledge, science, and the values identified by Sagkeeng community members.</p>	<p>Manitoba Hydro would like to work with Sagkeeng First Nation and other Communities. Manitoba Hydro is seeking input on land selection criteria.</p>	<p>Insufficiently addressed. Manitoba Hydro has identified opportunities to provide feedback on the identification of offsetting criteria, however, this does not constitute a collaborative framework for assessing ecological and cultural values identified by Sagkeeng community members.</p>

Recommended Measures	Manitoba Hydro's Response	Adequacy of response
<p>7. Manitoba Hydro to apply a minimum offsetting ratio of at least 4:1 for Crown lands and wetland habitat, where offsets are of similar ecological and cultural function to the values lost to development.</p>	<p>Manitoba Hydro has accepted Sagkeeng First Nation's comments and has applied a 4:1 multiplier to address uncertainty of effectiveness, indirect and cumulative effects. The measure put forward in this document works alongside other measures already in place, such as routing in existing transmission corridors and away from areas of concern, the development of areas for additional protection such as Environmentally Sensitive Sites and rehabilitation of disturbed areas.</p>	<p>Sagkeeng is prepared to accept the minimum offsetting ratio of at least 4:1 to address uncertainty in the effectiveness of offsetting measures. The application of this ratio does not address deficiencies in the calculation of residual project effects (see recommendation #5). Sagkeeng accepts this minimum offsetting ratio with the understanding that offsets must be of similar or greater ecological and cultural function to the values lost to development.</p>
<p>1. Manitoba Hydro to identify and share for review and comment with Sagkeeng, higher offsetting ratios for locations where equivalency is low and/or uncertainty is high.</p>	<p>Please refer to the response to recommendation #7</p>	<p>Insufficiently addressed. The selected offsetting ratio of 4:1 does not address cases where offsetting equivalency is low.</p>
<p>Concern: Inappropriate offset measures. From Sagkeeng's perspective, a monetary payment to the Province of Manitoba, or a designated agency, is not an appropriate offset measure. This approach does not support Indigenous engagement and participation, nor does it provide Sagkeeng with assurances that offsetting funds will be properly used to maintain, restore or compensate for Sagkeeng rights and interests impacted by the permanent loss of Crown lands and wetland habitat in our traditional and ancestral territories.</p>		
<p>9. Manitoba Hydro to provide Sagkeeng the time and resources necessary to collaboratively develop an offset plan that supports the retention and regaining of ecological and cultural function resembling that of Crown land and wetland habitat permanently impacted by the Project. Sagkeeng engagement in the development of the offset plan should include, but not be limited to identification of appropriate offsetting areas, the selection and implementation of restoration treatments, monitoring of restoration results, and engagement in the development of adaptive management responses.</p>	<p>Manitoba Hydro has provided funding to Sagkeeng First Nation to refer and make recommendations on this Plan. That review process has influenced this approach. We welcome comments on the criteria put forward in this document.</p>	<p>Partially addressed. Sagkeeng acknowledges that Manitoba Hydro has revised offset measures to no longer include a monetary payment to the Province of Manitoba. The opportunity to comment, however, does not constitute collaborative development. Sagkeeng has outstanding concerns regarding the level of community engagement described in this Plan (please refer to comments on the Summary Approach).</p>

Recommended Measures	Manitoba Hydro's Response	Adequacy of response
10. Manitoba Hydro to develop a governance structure for implementation of the offset plan that supports Sagkeeng engagement and participation.	Please refer to the response to Recommendation 2	Insufficiently addressed.
11. Manitoba Hydro to work with Sagkeeng to develop an Indigenous knowledge-based approach to monitoring impacts and offsetting results, including a meaningful role for Sagkeeng in adaptive management decisions.	Manitoba Hydro will consider funding to support reasonable costs to support parcel review but is not anticipating additional costs to employ individual community members. Reasonable costs may include honorariums to support knowledge holders/cultural experts.	Insufficiently addressed. No monitoring or adaptive management activities have been identified.
12. Manitoba Hydro to identify sufficient funding to cover all costs of long-term management and monitoring, including a role for Sagkeeng Guardians.	Manitoba Hydro will consider funding to support reasonable costs to support parcel review, but is not anticipating additional costs to employ individual community members. Reasonable costs may include honorariums to support knowledge holders/cultural experts.	Insufficiently addressed. No monitoring or adaptive management activities have been identified.

A1.2 June 2020 Summary Approach

A summary of Sagkeeng’s concerns and recommendations pertaining to the June 2020 Revised Summary Approach for the MMTP was provided to Manitoba Hydro in a technical memorandum on July 15, 2020⁶. Manitoba Hydro has not yet issued a summary of, or responses to Sagkeeng’s comments on the Revised Summary Approach.

Table A1.2 summarizes the adequacy of revisions made in the draft final Crown Land Offset Measures Plan, as they pertain to Sagkeeng’s concerns shared in reference to the Summary Approach.

⁶ Sagkeeng First Nation. 2020. “Technical Memorandum: Sagkeeng First Nation Preliminary Comments on the Revised Summary Approach for a Crown Land Offset Measures Plan for the Manitoba-Minnesota Transmission Project.”

Table A1.2 Adequacy of Manitoba Hydro’s responses to Sagkeeng concerns shared in reference to the June 2020 Summary Approach.

Sagkeeng Concern	Recommended Measures	Adequacy of Revisions to the Draft Final Plan
<p>Lack of a comprehensive traditional land and resource use study: Sagkeeng has concerns that Indigenous consultation to date has been insufficient for adequate identification of residual project effects and the development of appropriate offset measures. Sagkeeng reiterates requests for the completion of a rigorous and comprehensive Traditional Land and Resource Use study within the Project area to inform the development of appropriate offset measures.</p>	<p>1. Manitoba Hydro to work with Sagkeeng to provide the time and resources necessary to conduct a comprehensive traditional land and resource use study for the project-affected area, with appropriate methodology and confidentiality agreements.</p>	<p>Manitoba Hydro has yet to provide a response. Based on the content of the draft final Crown Land Offset Measures Plan, recommended measures for a comprehensive traditional land and resource use study have not been adopted. This concern has not been adequately addressed.</p>
<p>Underestimation of the Trust contribution required to ensure effective offsetting for impacts to Crown land use: Manitoba Hydro’s proposed approach fails to account for the loss of use associated with the Right of Way and overhead transmission lines, resulting in an underestimation of residual project effects for which offsetting is required. Furthermore, Manitoba Hydro has revised land compensation calculations using a reduced land value of \$5,189/ha. This represents a 66% decrease compared to the easement rate of \$13,400/ha applied in the original Draft Crown Land Offset Plan and may substantially underestimate the funds required to purchase private land parcels. Finally, Manitoba Hydro’s proposed contribution to the Trust does not include sufficient funding for community engagement, monitoring, or adaptive management, which are crucial components of effective offsetting systems.</p>	<p>2. Sagkeeng requests that Manitoba Hydro makes the following changes to the proposed Trust contribution: a) Offsetting for a minimum of 550 hectares (1,356 acres) of Crown land impacted by the MMTP. b) A minimum contribution per hectare that reflects the anticipated value of private lands that will be purchased to offset impacts to Crown land use. c) Sufficient funds to cover the costs of meaningful community engagement, monitoring, and adaptive management (including a role for Sagkeeng Guardians).</p>	<p>Manitoba Hydro has yet to provide a response. Based on the content of the draft final Crown Land Offset Measures Plan, recommended measures for revisions to the offsetting area (550 hectares minimum), land value contributions, and funding for community engagement have not been adopted. This concern has not been adequately addressed.</p>
<p>Unclear and insufficiently resourced mechanisms for community input in the identification of selection criteria and potential land parcels: Manitoba Hydro’s proposed approach places the onus on members of the MMTP Monitoring Committee to inform and engage community members on behalf of Manitoba Hydro, without the provision of adequate resources necessary to do so. Potential land parcels, for example, will be suggested and shared through a password-protected webpage on the existing MMTP Monitoring Committee website. Sagkeeng, however, is not a member of this committee. Sagkeeng recommends a more collaborative</p>	<p>3. Manitoba Hydro to work with Sagkeeng to develop a collaborative approach for engaging the community directly in the identification of offset criteria and potential land parcels.</p>	<p>Manitoba Hydro has yet to provide a response. Based on the content of the draft final Crown Land Offset Measures Plan, recommended measures for the development of selection criteria and identification of potential land parcels have not been adopted. This concern has not been adequately addressed.</p>

Sagkeeng Concern	Recommended Measures	Adequacy of Revisions to the Draft Final Plan
<p>process that engages communities and land users directly in the initial identification of selection criteria and potential land parcels.</p>		
<p>Lack of Indigenous representation in the decision-making process for selection of land parcels: While Manitoba Hydro has allocated up to \$15,000 total (\$5,000 per land parcel, for up to three parcels) per community to review and comment on suggested land parcels, this is not adequate to support meaningful community engagement in the selection of land parcels. Furthermore, it is unclear if or how community leadership will be involved in decision-making and final selection. Sagkeeng requests that offset measures be implemented in a collaborative manner, including community representation in the decision-making process.</p>	<p>4. Manitoba Hydro to work with Sagkeeng to develop a community-specific approach for engagement and participation in the selection of land parcels, including a meaningful role for Sagkeeng in the decision-making process.</p>	<p>Manitoba Hydro has yet to provide a response. Based on the content of the draft final Crown Land Offset Measures Plan, recommended measures for engaging Sagkeeng in the decision-making process have not been adopted. This concern has not been adequately addressed.</p>
<p>Lack of a timeline for the purchase of Crown lands: Adequate time for consultation and collaborative decision-making are critical for ensuring the continuity of important cultural practices impacted by the loss of Crown lands. Sagkeeng requests the collaborative development of a schedule for offset implementation that includes the timely purchase of private lands, informed by adequate community engagement.</p>	<p>5. Manitoba Hydro to work with Sagkeeng to develop a timeline for the purchase of private lands that includes adequate time for meaningful engagement and collaboration.</p>	<p>Manitoba Hydro has yet to provide a response. Based on the content of the draft final Crown Land Offset Measures Plan, the timeline for this plan is 5 years. Timelines for community engagement in most aspects of this process are still unclear. Where timelines have been specified (e.g., communities will have seven days to comment on proposed land parcels), they are insufficient for meaningful engagement. This concern has not been adequately addressed.</p>
<p>Lack of monitoring and adaptive management: Monitoring and adaptive management are crucial for ensuring that offset measures do in fact produce the desired ecological and cultural outcomes. Sagkeeng reiterates requests for the inclusion of monitoring and adaptive management in the Crown Land Offset Measures Plan for the MMTP.</p>	<p>6. Manitoba Hydro to work with Sagkeeng to develop an Indigenous knowledge-based approach for monitoring the effectiveness of offsetting, including: a) employment of Sagkeeng cultural experts, knowledge holders, and Guardians in monitoring activities; and b) a meaningful role for Sagkeeng in adaptive management decisions.</p>	<p>Manitoba Hydro has yet to provide a response. Based on the content of the draft final Crown Land Offset Measures Plan, some monitoring and reporting activities have been added. Monitoring described in the revised plan does not include a role for Sagkeeng in on-the-land monitoring or adaptive management decisions. This concern has only been partially addressed.</p>

Manitoba Hydro's August 2020 Crown Land Offset Measures Plan Dakota Nations Presentation. (Manitoba Hydro, 2020)

Crown Land Offset Measures Plan

DAKOTA NATIONS



Manitoba Hydro

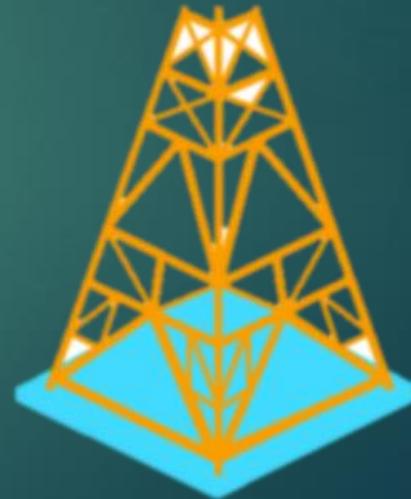
- ▶ Built a transmission line called the MMTP
- ▶ Some of the line crosses Crown land
- ▶ The area directly under the transmission towers is not accessible anymore





The area
under towers
is inaccessible

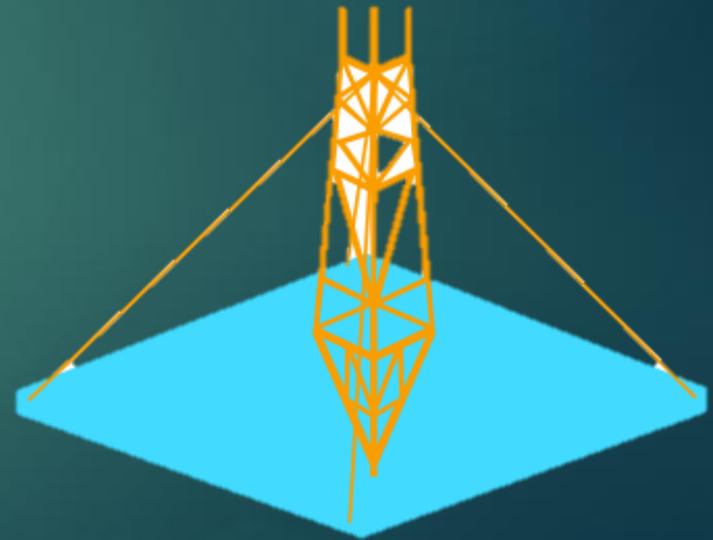
- ▶ Self-supporting towers





The area
under towers
is inaccessible

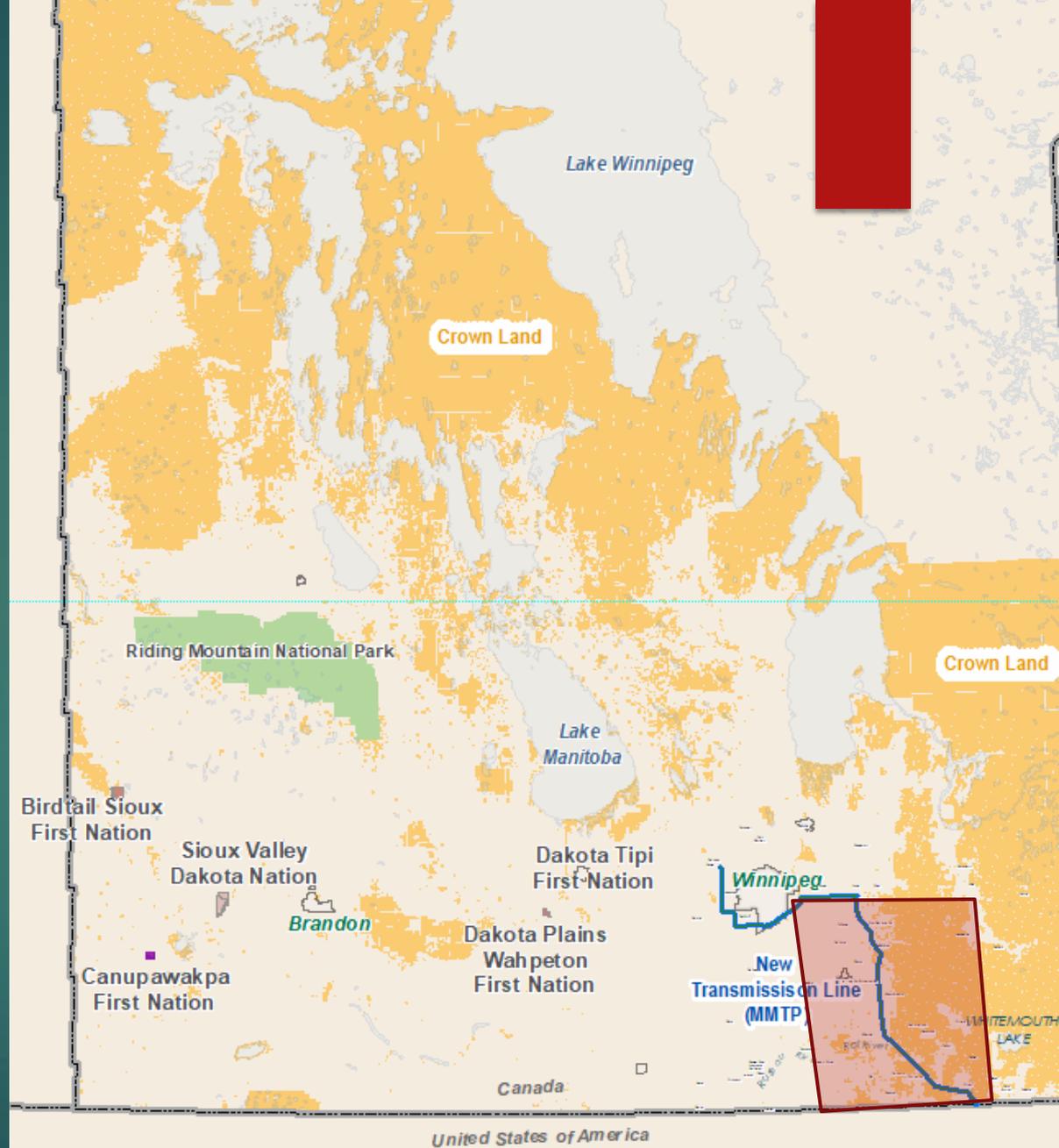
- ▶ Guy-wire towers



Manitoba Hydro is
required to offset or
compensate for this
permanent loss of
land

Manitoba Hydro will:

- ▶ Buy private land (four times the amount lost or 96.4 ha) and convert it to Crown land
- ▶ Buy in the area of focus (red square)
- ▶ Replace the land close to where it was lost



What should we base our selections of new land parcels on?

Focus on:

- ▶ Land that is in a natural state?
- ▶ Land that is near existing Crown land
- ▶ Land that has traditionally important plants or animals
- ▶ Land that Indigenous communities have shown are used in their studies
- ▶ Something different?

Thank you for your feedback!



**Canupawakpa Dakota Nation's August 19th 2020 letter to Manitoba Hydro
(Canupawakpa Dakota Nation, 2020).**

CANUPAWAKPA DAKOTA NATION

P.O. Box 146
Pipestone, Manitoba
R0M 1T0
Ph. 204-854-2959
Fax 204-854-2525

Sarah Coughlin

Senior Environmental Specialist

Licensing & Environmental Assessment

Transmission, Manitoba Hydro

360 Portage Ave, Winnipeg, MB

scoughlin@hydro.mb.ca

Dear Sarah Coughlin,

The Canupawakpa Dakota Nation is corresponding with the intention of stating our position on the Manitoba-Minnesota Transmission Project regarding Condition 22 engagement as discussed in our teleconference with yourself as representative of Manitoba Hydro.

We are stating that we as the Canupawakpa Dakota Nation be represented in the decisions in the draft plan to allocate resources for purchasing crown land to mitigate the land used for this project.

We discussed with the community Elders and in agreement the importance of allocating land in the vicinity of Canupawakpa Dakota Nation for future use in areas of land-based education, traditional harvesting, and food sustainability for future generations.

It is recommended by the Canupawakpa Dakota Nation that Manitoba Hydro utilize the Berger Formula so that each community involved in this project will receive an equitable share of resources and for our community to acquire the said land in the vicinity of Canupawakpa Dakota Nation #59. We are requesting that monies not expended in the consultation component be allocated to the actual purchase of acquiring land resources.

If you have any further questions please contact CDN CEO, Sheree Blacksmith.

Sincerely,



Sheree Blacksmith, CDN CEO

Dakota Tipi First Nation's August 21, 2020 Response to Manitoba Hydro (Dakota Tipi First Nation, 2020)



Dakota Tipi First Nation

2020 Dakota Drive, Dakota Tipi, MB R1N 3X6
Ph: 204-857-4381 | Fax: 204-857-9855

August 21, 2020

Sarah Coughlin/ Maria M'Lot
Manitoba Hydro
360 Portage Avenue
Winnipeg, Manitoba

**RE: Dakota Tipi First Nation Response to Manitoba Hydro
Condition 22 – Crown Land Offset Measures Plan**

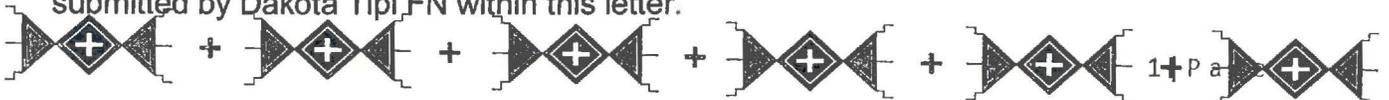
Please accept this letter as Dakota Tipi First Nation's response to the Manitoba Hydro's proposal to Manitoba First Nations: Condition 22 – Crown Land Offset Measures Plan.

As a Nation with an existing relationship with Manitoba Hydro (per more recently *Manitoba Bipole 3* and *Manitoba Minnesota Transmission* Projects), Dakota Tipi FN is supportive of Manitoba Hydro's efforts in working towards beneficial, realistic and long-term consultation solutions with and for the community.

As per the *Condition 22 - Crown Land Offsets Measures Plan*, the Dakota Tipi First Nation Chief, Council and membership conducted a review process of it through July to August 2020. This was conducted via a membership consultation process. Darryl Taylor, lifelong member of the Dakota Tipi FN and local environmental Liaison for the Nation, worked as a Coordinator for this project. Dakota Tipi FN also hired youth to help coordinate the membership consultation.

Darryl conducted preliminary feedback throughout the first two (2) weeks of this project. Himself and I also further worked towards attending meetings with our local MLA Ian Wishart and land ownership to discuss current land issues and proposals. We also attended a former Dakota campsite near Melita, Manitoba that was discovered and begin investigated by the *Manitoba Archaeological Society* (14th to 15th century Dakota Winter Camp) to provide blessing to the excavations and self-investigate (July 18).

On August 17, 2020, myself and Darryl provided first draft verbal comments via teleconference with Manitoba Hydro with respect to the response that is being submitted by Dakota Tipi FN within this letter.



On August 20, 2020, community and Elder members of the Dakota Tipi FN were invited to meet with myself and Darryl per final review. Four (4) community Elder members attended this meeting.

Per the August 17 and 20 meeting, Dakota Tipi First Nation officially responds as per follows:

- Dakota Tipi First Nation representatives would like to first and foremost present to Manitoba Hydro that the Dakota Tipi First Nation is one (1) of nine (9) current Dakota Nations within Canada and one (1) of five (5) within Manitoba.
- Dakota Tipi First Nation would like to present that it has not ever entered into or is signatory to a Treaty with any foreign Government (such as Canada/ Province of Manitoba) and that the Dakota people of Canada today never ceded nor surrendered to any foreign Government as it continues to exist/ remains today.
- Dakota Tipi First Nation would like to additionally present that there are regions (modern day southern regions of Manitoba, Saskatchewan and sections of Alberta) that are still considered Dakota traditional territories by way of traditional view and in consideration to the non-Treaty status of the Canada Dakota's today.
- Per Section 22 of the Crown Land Offset Measures Plan, Dakota Tipi First Nation supports this process being proposed by Manitoba Hydro.
- Dakota Tipi First Nation has presented that there are private land parcels for which the Dakota Tipi First Nation is currently seeking to obtain (purchase) which are the River Lots of 17 and 20 (*Kroeker Farm Ltd. And RM of Portage la Prairie* respectively sites) located directly south of Dakota Tipi First Nation.
- **Dakota Tipi First Nation is seeking Manitoba Hydro's support in being able to obtain/ purchase these land areas and additional as may become available in future discussions/consultations.**
- Dakota Tipi First Nation would like to engage in a process to obtain additional land areas (such as River Lots 18, 19 and 21) per current and future discussions with the land ownership.
- Dakota Tipi First Nation would like to present that these land obtainments would be beneficial for the expansion of the community and for the long-term economic development vision and sustainability for the Nation and future of Dakota Tipi First Nation.

- Dakota Tipi First Nation requests that Manitoba Hydro continue to work with Dakota Tipi First Nation in all consultation regards and is supportive of Manitoba Hydro's consultation processes.
- Dakota Tipi First Nation continues to look forward to working with Manitoba Hydro in all development/ consultation/ relationship regards.

In closing, and on behalf of the Dakota Tipi First Nation, I would like to thank Manitoba Hydro for their continuing efforts and collaboration with Dakota Tipi in regards to these projects.

Respectfully,



Chief Eric B. Pashe
Dakota Tipi First Nation
C: (204) 871-3847
E: e.pashe@live.ca

C.c. File

MNP's August 24, 2020 Comments on Manitoba Hydro's draft Manitoba-Minnesota Transmission Project Crown Land Offset Measures Plan for Condition 22 of Certificate EC-059 (MNP, 2020)

August 24, 2020

Manitoba Metis Federation
150 Henry Ave
Winnipeg, MB R3B 0J7

RE: Comments on Manitoba Hydro's draft Manitoba-Minnesota Transmission Project Crown Land Offset Measures Plan for Condition 22 of Certificate EC-059

Dear Manitoba Metis Federation,

As per our Engagement Letter, please accept this initial review and comments on the Manitoba-Minnesota Transmission Project ("MMTP") draft final Crown Land Offset Measures Plan ("dfCLOMP") prepared by Manitoba Hydro for Condition 22 of Certificate EC-059 ("Certificate").

Condition 22 states:

Manitoba Hydro must file with the Board, for approval, 30 days prior to commencing operations, a Crown Land Offset Measures Plan (the Plan) that outlines how permanent loss of crown lands available for traditional use by Indigenous Peoples resulting from the Project will be offset or compensated for. The Plan must include:

- a) a description of site-specific details and maps showing the locations where Crown land is no longer available for traditional use as a result of Project activities at Dorsey Converter Station and the transmission tower locations, as well as any other locations;
- b) a list of the offset or compensation measures that will be implemented to address the permanent loss of Crown lands identified in a) above;
- c) an explanation of the expected effectiveness of each offset measure described in for each Indigenous community;
- d) the decision-making criteria for selecting specific offset measures that would be used and under what circumstances;
- e) a schedule indicating when measures will be implemented and the estimated completion date(s);
- f) summary of consultation by Manitoba Hydro with any impacted Indigenous communities and with relevant provincial and federal authorities regarding the Plan; and,
- g) this summary must include a description of any issues or concerns raised regarding the plan by Indigenous communities and how Manitoba Hydro has addressed or responded to them.

Please find below an overview of our central comments on Manitoba Hydro's dfCLOMP as well as a detailed table listing specific concerns and comments in Appendix A.

BACKGROUND

The MMTP is a 213 km-long, 500 kV, international power line; originating at the Dorsey Converter Station located near Rosser, northwest of Winnipeg, it travels south around the city and then east towards Anola, where it continues south-southeast to the Manitoba-Minnesota border, near Piney. The Manitoba Metis Federation ("MMF") has made clear the importance of this place to the Metis:

For the Manitoba Metis Federation (“MMF”), as the democratic self-government representative of the Manitoba Métis Community (the “Métis”), this is no ordinary transmission line. The Project dissects the heart and soul of its traditional territory, known as the Métis Homeland. The valleys of the Red and Assiniboine Rivers and the lands stretching from Winnipeg to the American border is where the Métis—as a distinct Indigenous people—were born. It is their *place*.

This *place* is home to their origin story, traditional lands, unique language, culture, and way of life. It is where they originally forged their nation-to-nation relationship with Canada in 1870, which brought the province of Manitoba into confederation and created one of the enduring constitutional compacts this country is built on. This *place* is irreplaceable for the Manitoba Métis Community.

In this *place*, the Métis should presently own over 1.4 million acres of land flowing from the “head start” they were promised in relation to the lands in the original ‘postage stamp’ province of Manitoba. This was the intent of the constitutional compact reached between Canada and the Manitoba Métis Community in 1870, which is embedded in parts of the *Manitoba Act, 1870*.

Instead of securing a “lasting place” in the province they were partners in creating, the Métis were systemically disposed from their *place* because the federal Crown “failed to implement the land grant provisions in section 31 of the *Manitoba Act, 1870* in accordance with the honour of the Crown” [*Manitoba Metis Federation Inc. v. Canada*, 2013, 1 SCR 623, at para 9] . . .

In this *place*, the Métis also continue to hold and exercise collectively-held Aboriginal rights and interests throughout southern Manitoba generally and the Project area specifically. These are pre-existing and communal Aboriginal interests in the Project area that are integral to the distinctive nature of the Manitoba Métis Community and their relationship to the land. These Métis communal interests are protected as Aboriginal rights by section 35(2) of the *Constitution Act, 1982*. They require the Crown to consult and accommodate the Métis on decisions that have the potential to adversely impact these rights.”¹

The MMTP was subject to federal and provincial reviews, including hearings before the National Energy Board (“NEB”) in June 2018. During the federal review, Canada confirmed that it was relying, to the extent possible, on the NEB (now the Canada Energy Regulator or “CER”) processes as part of fulfilling its duty to consult and accommodate Indigenous peoples regarding impacts of the MMTP.

On November 15, 2018, the NEB released its Reasons for Decision and recommended that the Governor in Council approve the issuance of the Certificate, subject to the twenty-eight conditions proposed by the NEB. The NEB specifically observed that:

The proponent [Manitoba Hydro] argued that the loss of Crown land associated with the proposed Project was very small in comparison with the total acreage of land available to the provincial Crown and that the land was still available for traditional use. However, the Project is located in an area of the province in which Crown land of the type and quality sufficient to be considered in future negotiations is in relatively short supply. The Board would find the proponent’s argument more compelling were the Project located in an area

¹ MMF Final Written Submissions to the National Energy Board for Hearing Order EH-001-2017 (June 22, 2018).

of the province in which Crown land is abundant and the loss of Crown land relative to this abundance was small.²

The NEB expressly noted that this conclusion was part of its rationale for imposing Condition 22 and requiring Manitoba Hydro to “establish a plan to offset or compensate [for] the loss of Crown lands available for traditional use by Indigenous Peoples.”³ In the NEB’s view, this approach followed the principle of “first, do no harm; that is, do no harm to the honour of the Crown by impeding its ability to fulfill its obligations.”⁴

After the NEB completed its hearing process and released its Reasons for Decision, Canada engaged in supplemental consultation with Indigenous communities, including the MMF on behalf of the Manitoba Metis Community, regarding outstanding concerns and unaddressed impacts of the MMTP on their section 35 Aboriginal and treaty rights. As a result of this supplemental consultation, the federal Crown modified five of the conditions initially proposed by the NEB, including Condition 22, to specifically accommodate for outstanding impacts on the section 35 rights of Indigenous communities, including the Manitoba Metis Community.

On June 28, 2019, the Certificate was issued to Manitoba Hydro subject to twenty-eight conditions, including the Crown’s modified language for Condition 22 (quoted above).

The dfCLOMP was created by Manitoba Hydro Licensing & Environmental Assessment Department to fulfill the requirements of Condition 22.

An initial draft of the CLOMP was provided by Manitoba Hydro to the Indigenous Monitoring Committee in November 2019 (the “November 2019 Draft”). A high-level outline of a revised approach to the CLOMP (the “Summary Approach”) was provided by Manitoba Hydro in June 2020.

The MMF has repeatedly outlined its significant concerns with the November 2019 Draft and Summary Approach, including in letters dated February 14, 2020 and June 29, 2020. Among other concerns, the MMF expressly noted that: the CLOMP significantly underestimates the amount of land permanently lost to traditional use for the Manitoba Metis Community; included an unenforceable mechanism/offset measure; did not meet nearly half of the requirements of Condition 22; and that there had not been any meaningful consultation or capacity for the MMF to review the draft CLOMP.

A copy of the dfCLOMP was provided to the MMF on July 29, 2020.

Overall, the dfCLOMP was significantly amended from the November 2019 draft, however, there are still fundamental issues remaining which must be addressed. These are summarized below and outlined in greater detail in Appendix A.

PREVIOUSLY RAISED ISSUES ACKNOWLEDGED BUT NOT ADDRESSED

Manitoba Hydro has not addressed many of the issues and concerns raised by the MMF in previous correspondence regarding Condition 22.

For example, MMF has repeatedly raised a concern with Manitoba Hydro’s calculation of Crown lands that are no longer available for traditional use by the Manitoba Metis Community as a result of the MMTP. In response letters, Manitoba Hydro indicated that they would be open to suggestions for re-calculating permanent loss of Crown lands; however, the dfCLOMP continues to consider only the land under towers as lands “no longer available for traditional use as a result of Project activities” that require offsetting. The inadequate calculation has remained the same since the

² NEB Reasons for Decision in the matter of Manitoba Hydro, Manitoba-Minnesota Transmission Project, EH-001-2017 (November 15, 2018), page 4.

³ NEB Reasons for Decision in the matter of Manitoba Hydro, Manitoba-Minnesota Transmission Project, EH-001-2017 (November 15, 2018), page 5

⁴ Ibid.

November 2019 Draft. What has changed is that Manitoba Hydro has proposed to use a multiplier on the original calculation as a way of responding to this concern. While a multiplier can, in certain circumstances, be used as a calculative measure to address uncertainty, a multiplier does not remove the need for an accurate baseline calculation in the first place.

Identifying only the transmission tower footprints as lands no longer available for traditional use as a result of Project activities ignores the evidence provided by the MMF to the NEB about impacts on the Metis and specifically, the loss of lands for the exercise of section 35 Metis rights as a result of Project activities.⁵ The MMF Study—which is on the record before the NEB—illustrated a change of 290.13 hectares from Unoccupied Crown land to Occupied Crown land within the Project Development Area. Moreover, the MMF Study concluded that this change in lands (a legal change and a biophysical change) available for Metis use was irreversible for the lifetime of the easement agreement, and therefore, permanent.

Further, Metis Citizens and harvesters during a meeting about the dfCLOMP noted that the MMTP covers large areas, not just the tower footprints, and that compensation should be for the entire line as helicopters and machines will displace harvesters and animals for years and over this entire area. Metis Citizens and harvesters expressed that Manitoba Hydro's approach to offsetting in the dfCLOMP did not align with what the impacts and lands lost to them actually are. This sentiment confirms the results of the MMF Study and reinforces the conclusion that land beyond the tower footprints will be permanently lost when considered from the distinct perspective of the Metis and impacts on Metis section 35 rights.

In addition, in its February 14, 2020 letter the MMF outlined the lack of meaningful consultation with Manitoba Hydro regarding the draft CLOMP. This concern was rooted in the unique aspects of section 35 rights and how they are exercised differently by each Indigenous nation involved in the process. For example, timelines and capacity needs are different when consulting with the Manitoba Métis Community, which is a large (120,000+ Metis Citizens), highly-mobile, Indigenous community with members who live and exercise their rights across the entire province of Manitoba versus consulting with a smaller, localized First Nation of perhaps a few hundred members. Instead of addressing this concern, Manitoba Hydro offered generic assurances that they were, indeed, speaking with Indigenous communities and would incorporate the input into the dfCLOMP. In response to the MMF's concerns about inadequate timelines for meaningful consultation with the Manitoba Metis Community, Manitoba Hydro pointed to how it asked the CER for an extension on the timing required to file the CLOMP, but still has only provided the MMF with less than one month to review the dfCLOMP. This does not provide the level of meaningful and direct consultation required, nor does it provide the assurance that the issues raised by the MMF were considered by Manitoba Hydro. This dismissive approach to concerns raised by the MMF exacerbates the disconnect between the two parties.

DIRECTED PROCESS INSTEAD OF COLLABORATIVE

The dfCLOMP outlines a process that is principally directed by Manitoba Hydro, rather than one that is collaboratively developed in partnership with the Indigenous communities, as envisioned by of Condition 22. This is illustrated through Manitoba Hydro having exclusive control over the management of the process and the sole final say in purchasing offset lands, rather than this being undertaken jointly with the Indigenous communities who will be impacted by the MMTP and who are supposed to receive the benefits of the offset lands. Manitoba Hydro has stated in response to requests for a joint or collaborative decision-making process that it is concerned the implementation

⁵ Metis Land Use and Occupancy Study, Assessment of Potential Effects Prior to Mitigation, Manitoba Minnesota Transmission Project (2016). ("MMF Study").

of the CLOMP through a consensus-based model introduces risk,⁶ however this is not grounded in any evidence. Even the Crown in Treaty Land Entitlement processes does not follow an approach whereby it is allowed to select and set aside lands over the objections of the Indigenous community who holds the entitlement.

Consultation on and implementation of the dfCLOMP requires a consensus-based model that is built on the premise of reconciliation; regular project engagement will not be sufficient in this case. True reconciliation comes with an understanding that the Manitoba Metis Federation is the democratically elected self-government representative of the Manitoba Metis Community and must be involved in a decision-making role and capacity in the implementation of the CLOMP. During the meeting with MMF Citizens and harvesters on the dfCLOMP, Community members expressed that Manitoba Hydro should give the Metis a choice and a voice in the process, stressing the need for a consensus-based model. The process must be meaningful and allow for discourse to ultimately result in a Crown Land Offset Measures Plan which addresses the unique land requirements of the MMF. This is currently not the case. Currently this is more a “blowing off steam” process.

UNCERTAINTY IN IMPLEMENTATION

The dfCLOMP ultimately still relies on a process whereby lands are provided to the Government of Manitoba yet does not include sufficient details about the long-term honourable implementation of the CLOMP and offers no guarantee that the offset lands will not be disposed of by the Government of Manitoba in the future. Without this information there is the potential for the CLOMP to be implemented in a manner that results in an empty shell of an accommodation measure for impacts of the MMTP on Metis rights.

In addition, as further outlined below, a plan that includes ultimately transferring the offset lands to Manitoba risks further impacts to section Metis 35 rights through increased secondary effects (e.g., increased non-Metis access) as articulated in the MMF Study. Metis Citizens and harvesters affirmed this risk during the meeting on the dfCLOMP and expressed concerns with the implementation of the CLOMP being subject to the changing political whims of future provincial governments. For example, Metis Citizens outlined how the current Manitoba government does not respect the MMF or Metis rights, yet before the present government, there was some progress in working together. These views highlight the concerns Metis Citizens have with the approach proposed by Manitoba Hydro in the dfCLOMP that rests on transferring offset lands to the province.

INSUFFICIENT FUNDING ALLOCATION AND REVIEW TIMELINES

The funding allocation in the dfCLOMP for both the purchase of land and consultation related activities is insufficient. Manitoba Hydro's funding allocation for land purchases is based on the original transmission tower calculation of 24.1 hectares with a 4x multiplier, increasing the land to 96.4 hectares. Based on this calculation and an estimated market value of \$5,189/hectare, \$500,000 will be allocated to purchase this land. This is inappropriate for three reasons:

1. Limiting the land required for offset to only the transmission tower locations is unacceptable as the MMF Study documented that lands beyond the tower footprints would be lost for the exercise of Metis rights. The MMF Study indicated that there would be a reduction in Unoccupied Crown land of 290.13 hectares. This, at the reduced estimated market value, would require \$1,505,485 (without a multiplier) to be allocated for land purchase; and \$3,887,742 at the highest arable agricultural land easement rate (without a multiplier). With a 4x multiplier, this would require \$6,021,940 (reduced estimated market value) and \$15,550,968 (at the easement rate);

⁶dfCLOMP, Page 27

2. The market value estimate was based on the designation of an Area of Focus for land purchase without consultation with the MMF and is a considerable decrease of the market value from the \$13,400 proposed when the land was estimated to be the highest arable agricultural land easement rate; and
3. The 4x multiplier was selected without consultation with the MMF on whether that multiplier was appropriate to address impacts to section 35 Metis rights.

Further, Manitoba Hydro's allocation of \$315,000 to support consultation and review of the land parcels is also insufficient. Manitoba Hydro has arbitrarily divided this amount among the 21 Indigenous communities with no regard for what meaningful consultation with each community actually entails or requires. This amounts to \$15,000 per Indigenous community for the estimated 5-year duration of the land selection/review process, which amounts to only \$3,000 per year regardless of how many parcels are identified or how in-depth the required review is. This funding amount is extremely low. Notably, Manitoba Hydro has proposed a total amount for 5 years to implement the CLOMP that is less than what was provided to the MMF review the dfCLOMP. How can implementing the plan and selecting lands be expected to cost less than reviewing the draft plan? Particularly as there are other activities such as field visits and tours contemplated as well. This amount should be increased overall, in light of what meaningful and reasonable consultation with the Manitoba Metis Community requires, and allocated on an annual basis to provide certainty to the MMF and other Indigenous communities involved.

The timeline for consultation on each identified land parcel is also impossibly short, with a mere 7 days allocated by Manitoba Hydro for the MMF's review and consultation. This is unreasonable for any Indigenous community, but particularly one as large, mobile, and dispersed as the Manitoba Metis Community (which includes over 120,000 Metis Citizens living and exercising their rights across the entire province). These timelines should be increased overall and be developed in light of the MMF's process for engaging in consultation with the Manitoba Metis Community which is set out in MMF Resolution No. 8.

MITIGATION HIERARCHY

Another concern previously raised by MMF that has not been addressed is Manitoba Hydro's disregard for Condition 22(b) which requires "a list of the offset or compensation measures." Manitoba Hydro continues to only focus on one measure in the dfCLOMP, the purchase of offset lands, rather than including a list of measures as identified by the plain language of the Condition. The reference to "a list of the offset or compensation measures" in Condition 22 is consistent with an approach that follows a mitigation hierarchy and recognizes that more than one option may be required to fully offset and accommodate impacts. This is particularly so where the impacts to be accommodated are impacts on section 35 rights, that are distinct for each Indigenous community.

Manitoba Hydro's continued refusal to include a list of offset or compensation measures appears to be based on its misunderstanding of the mitigation hierarchy. Manitoba Hydro indicated that a mitigation hierarchy "...discourages the use of compensation as it is viewed as a way for proponents to purchase a license to damage the environment".⁷ In fact, a standardized mitigation hierarchy does not discourage the use of compensation. Rather, compensation is viewed as a method to provide redress where a project cannot achieve 'no net loss' or 'net gain'. This is of importance when dealing with impacts to section 35 rights as the rights may not be fully quantified through a single project regulatory process or may not be fully assessed or impossible to fully offset through a single approach therefore, an aim of 'net gain' is preferable.

Further, it is interesting to note that monetary compensation is identified by Manitoba Hydro as an effective mitigation measure for the draft Wetland Offset Measures Plan and draft No Net Loss of

⁷ dfCLOMP, Page 26

Wetlands Plan required by Condition 26. It is unclear why Manitoba Hydro continues to object to identifying any other offset measures, including compensation, for the Condition 22 CLOMP in light of this fact.

A list of offset and compensation measures that includes financial compensation must be added as a possible measure for the reasons summarized above and because Manitoba Hydro is proceeding with an Area of Focus where land available for purchase as offset land may not be contiguous or support a similar exercise of Metis rights and net gain may not be possible.

IMPACTS OF NON-INDIGENOUS LAND USE

An issue not considered in the dfCLOMP is the access and use of the offset land for non-Indigenous harvesters and other land users. Under the dfCLOMP as it currently stands, the offset land will be converted to provincial Crown land and the land will become consistent with provincial Crown lands legislation where non-Indigenous land users cannot be restricted. This will increase pressure on Indigenous land users, particularly as the land within the Area of Focus is largely non-contiguous. The increased impacts from non-Indigenous land users is currently not addressed in Manitoba Hydro's dfCLOMP and represents a substantial risk that the lands—intended to offset impacts on Indigenous communities' section 35 rights—will be further whittled away at in the future by non-Indigenous land users. This is an outstanding issue that must be addressed as part of the CLOMP.

DORSEY AND RIEL CONVERTER STATIONS / GLENBORO SOUTH STATION

Finally, Manitoba Hydro has stated in the dfCLOMP that there "...is no loss of Crown land associated with the Dorsey and Riel converter stations or the Glenboro south station". This statement discounts the evidence in the MMF Study,⁸ which indicated that Metis avoidance behaviors in proximity to transmission lines results in lands that are no longer available to the Manitoba Metis Community for traditional use. In the MMF Study participants noted they would not harvest nearby if industrial activity was present (for example, 93% of Study participants noted they would not hunt if industrial workers or vehicles were present and a majority of Study participants said that they would avoid transmission lines for harvesting activities by at least 100m/100yards). This evidence—that was before the NEB—means that the land permanently lost to Metis harvesters is greater than just the physical disturbance, including the footprint of the converter stations, and should be considered in the calculation of Crown land no longer available for traditional use as a result of the MMTP activities.

⁸ Metis Land Use and Occupancy Study, Assessment of Potential Effects Prior to Mitigation, Manitoba Minnesota Transmission Project (2016)

We hope that the issues presented in this letter and below Appendix A will result in amendments to the draft Final Crown Land Offset Measure Plan that ensure impacts of the MMTP the Manitoba Metis Community section 35 Metis rights are addressed.

Sincerely,

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APPENDIX A

#	Draft Final Crown Land Offset Measures Plan Section	dfCLOMP Details	Outstanding Comment, Concern, or Question
1.	<p>Preface Page v</p>	<p>“The revised Plan continues to propose offset rather than compensation measures as the most effective way of addressing the permanent loss of Crown land caused by the Project.”</p>	<p>Condition 22 (b) states that the Plan must include a list of the offset or compensation measures that will be implemented to address the permanent loss of Crown lands.</p> <p>While Manitoba Hydro may consider the CLOMP the ‘most effective way of addressing the permanent loss of Crown land’, not including a list of measures is inappropriate in that it ignores the language of the Condition and does not follow an approach that includes a mitigation hierarchy. Compensation for impacts must be considered if the Plan is to fulfill the requirements of Condition 22. Excluding compensation and other offset measures illustrates how Manitoba Hydro is simply going through the motions of consultation without leaving room for discussion with the MMF on which measures best address impacts to their section 35 Metis rights. In fact, Manitoba Hydro has unilaterally ruled out all discussion of other potential offset measures, despite the requirements in Condition 22 for consultation, developing a list of measures, and identifying the effectiveness of each measure for each Indigenous community.</p> <p>This was raised in the MMF’s previous correspondence on Condition 22 which stated:</p> <p>“...Hydro’s Plan is premised on a tunnel vision approach that offset lands are the only way to fulfill Condition 22 and that Hydro has therefore pre-determined the Plan’s outcome. Consultation, if it is to be meaningful, requires a two-way dialogue, with give-and-take on both sides and the serious consideration of changes to the Plan to address the concerns raised by Indigenous communities. A pre-determined outcome that land is the only option entirely negates the purpose of the consultation required by Condition 22.”</p> <p>The CLOMP should be revised to include a list of offset or compensation measures. See also comments below regarding the use of a mitigation hierarchy.</p>

#	Draft Final Crown Land Offset Measures Plan Section	dfCLOMP Details	Outstanding Comment, Concern, or Question
2.	Preface Page v	“The provisions of a draft written arrangement between Manitoba Hydro and the Province of Manitoba are also aimed at providing more certainty regarding the long-term benefits of the offset lands to communities”	Any written arrangement between Manitoba Hydro and the Government of Manitoba must provide certainty regarding the long-term benefits of the offset land to the Metis. In addition, it must provide certainty that impacts are not compounded through this approach, including for example access and use by non-Indigenous harvesters if the offset lands are held by Manitoba as provincial Crown lands. See comments below regarding the proposed written arrangement between Manitoba Hydro and the Government of Manitoba and the need to address secondary effects where the lands are proposed to be held by Manitoba as provincial Crown lands.
3.	2. Overview of Plan 2.1 Offset Measures Page 3	“Manitoba Hydro proposes to offset for the permanent loss of Crown lands available for traditional use by Indigenous people by adding to the amount of Provincial Crown land currently available for traditional use.”	Does the dfCLOMP propose to increase the amount of provincial Crown land currently available for traditional use or offset for loss? If it is the latter, the language in this passage should be amended to remove ‘adding’ and replace with ‘offsetting’. If it is the former, the MMF and Manitoba Hydro should engage in discussions to identify what ‘adding’ means (e.g. whether it is a no net loss approach or net gain approach).
4.	2. Overview of Plan 2.1 Offset Measures Page 3	“The trust will be known as the “MMTP Crown Lands Offset Measures Trust” (the “Trust”) and will receive a \$815,000.00 (plus additional funds for administrative costs) contribution from Manitoba Hydro once approval of the Final Plan is received from the Canada Energy Regulator (CER).”	As outlined above and further below in comments #15, this amount of funding is insufficient and should be updated. In addition, the identification of a final, proscriptive amount of funds allocated to the Trust prior to the identification of the land for purchase is premature. This should be revised to be clear that the initial allocation is a minimum amount and to outline, based on further consultation with the MMF, clear circumstances/triggers for when Manitoba Hydro will add funds to the Trust.
5.	2. Overview of Plan 2.1 Offset Measures Page 3	“Parcels of eligible offset lands will be selected by Manitoba Hydro from private lands available for sale in southeastern Manitoba (see Area of Focus in Map 2). These selections will be made using specific criteria designed to assess the lands’ suitability for the exercise of traditional rights and suitability for purchase that have been developed by Manitoba Hydro in consultation with Indigenous communities”	It is unclear based on the dfCLOMP how the parcels will address the Manitoba Metis Community’s preferred means of harvest, including harvesting in areas of past success; ⁹ and how Manitoba Hydro will ensure these parcels are located in areas conducive to Metis harvesting and ensuring that Metis harvesters travel and associated travel costs do not increase. Where travel costs do increase, or where preferred locations are lost, it is unclear how these impacts are being accommodated under the current dfCLOMP.

⁹ Métis Land Use and Occupancy Study, Assessment of Potential Effects Prior to Mitigation, Manitoba Minnesota Transmission Project (2016) page 111 and page 112

#	Draft Final Crown Land Offset Measures Plan Section	dfCLOMP Details	Outstanding Comment, Concern, or Question
			<p>Metis rights are distinct from First Nation rights. This is acknowledged by the plain language of Condition 22 that requires the plan to identify the effectiveness of each measure for “each” Indigenous community. Manitoba Hydro cannot fulfill this requirement without considering specific Metis section 35 harvesting and other practices distinctly.</p> <p>As the MMF has noted the lack of specific consultation on the dfCLOMP in its letters dated February 14, 2020 and June 29, 2020, it can be assumed that there was none or only limited consultation with the MMF on the specific criteria designed to assess the lands suitability for the exercise of traditional rights (similarly in its June 29, 2020 letter, the MMF specified that ‘an outline’ of the Plan was all that was provided for review).</p> <p>This means that the above noted aspects integral to the Manitoba Metis Communities exercise of their section 35 Metis rights have not been considered within the ‘specific criteria’ described by Manitoba Hydro. This must be remedied, and the criteria used updated to reflect criteria for lands that are suitable for the exercise of Metis section 35 rights. In particular, Metis-specific criteria or indicators may need to be considered to ensure that any offset lands meet the distinct needs of the Manitoba Metis Community, including changes in legal restriction, changes in physical attributes, changes in Metis perception of land, increased access for non-Metis, change in type of harvesting activity undertaken, change or perception of change in quality of harvesting experience, change in harvesting success, change in availability of culturally critical species and change in perception of culturally critical species as detailed in the Metis Land Use and Occupancy Study (2016).</p> <p>See comments below regarding engagement with the MMF about the criteria.</p>
6.	<p>2. Overview of Plan 2.1 Offset Measures</p> <p>Page 3</p>	<p>“Indigenous communities may also identify parcels of interest for Manitoba Hydro's consideration. The description of all selected parcels will be uploaded to a website for consideration by Indigenous communities so that their feedback can be provided. Funds from the Trust will be made available to communities for this review process.”</p>	<p>Will funds from the Trust also be made available to the MMF for the identification of parcels of interest on their own?</p> <p>Manitoba Hydro's position has been that MMF staff are not eligible for reimbursement of their time because they are paid a salary by the MMF, however the MMF cannot be expected to self-fund these processes that are a requirement of the Certificate. Identifying offset lands should not, through the imposition of</p>

#	Draft Final Crown Land Offset Measures Plan Section	dfCLOMP Details	Outstanding Comment, Concern, or Question
			<p>Manitoba Hydro's policies, put the MMF at a further loss/disadvantage compared to other Indigenous communities in terms of receiving capacity to support identifying/reviewing and selecting lands.</p> <p>This also requires further detail on what Manitoba Hydro means by 'suitability for purchase' as MMF was not consulted on the criteria that will be used to identify this. Without full consultation on the criteria, the selection process may result in identification of lands deemed by Manitoba Hydro as unsuitable, without any clear reason or rationale as to why those lands are "unsuitable" when they were otherwise identified by an Indigenous community.</p> <p>Please provide additional details regarding funding for the MMF to identify lands and whether this will come from the Trust. Please also provide additional details explaining Hydro's view of "suitability".</p> <p>See comment #35 regarding reimbursement for MMF's review costs and Hydro's reimbursement policy.</p>
7.	<p>2. Overview of Plan 2.1 Offset Measures Page 3</p>	<p>"Through a written arrangement with the Province of Manitoba, Manitoba Hydro will transfer the parcels that have been purchased to the Province of Manitoba."</p>	<p>The MMF has previously expressed a preference for the parcels to be transferred to the Indigenous communities themselves, including the MMF, or to the federal Crown for the ongoing benefit of the Indigenous communities. This would avoid many of the outstanding concerns and risks inherent in the current plan to transfer lands to the Province of Manitoba.</p> <p>Please provide a response regarding why transferring offset lands to the MMF, and other Indigenous communities, and/or to the federal Crown was not considered, or was discounted by Manitoba Hydro. Please also confirm whether Manitoba Hydro asked if Canada would be willing to hold the Condition 22 offset lands, and if so what the response of the federal Crown was.</p>
8.	<p>2. Overview of Plan 2.1 Offset Measures Page 3</p>	<p>"It is presently anticipated that the Province will accept the transfer of these parcels at a nominal fee by Order in Council and, further, will be required to withdraw the lands from disposition at the same time, as set out in s. 5 of The Crown Lands Act, so that the lands may be</p>	<p>If Manitoba Hydro intends to recommend that Province withdraw the lands from disposition via Section 5(1)(j) which indicates that the Lieutenant Governor in Council may "...withdraw Crown lands from disposition under this Act for reasons to be set forth in the order effecting the withdrawal"¹⁰; the MMF requires involvement and meaningful consultation on the Order in Council to ensure the</p>

¹⁰ The Crown Lands Act, CCSM c C340

#	Draft Final Crown Land Offset Measures Plan Section	dfCLOMP Details	Outstanding Comment, Concern, or Question
		used by Indigenous communities for the exercise of traditional rights.”	<p>reasons set forth in the Order in Council align with the purposes of the Condition 22 and meet the requirements of offsetting impacts on the section 35 rights of the Manitoba Metis Community.</p> <p>The CLOMP should be revised to include a process for consultation with the MMF on the development of the Order in Council proposed for withdrawing the offset lands from further disposition.</p>
9.	<p>2. Overview of Plan 2.1 Offset Measures</p> <p>Page 4</p>	“Manitoba Hydro will continue to purchase parcels of land gradually over time until at least 96.4 ha of offset lands have been established as Provincial Crown lands.”	<p>Manitoba Hydro’s calculation of the lands lost for traditional use is insufficient. As outlined above, the MMF Study identified that 290.13 hectares of Crown land would be permanently lost to the exercise of Metis rights because of the project. This is 3x the larger than 96.4 ha identified by Manitoba Hydro.</p> <p>In addition, the NEB already rejected Manitoba Hydro’s argument that only small amounts of Crown land would be permanently lost because of the project (See NEB Reasons for Decision on MMTP (2018) (A95736-1). In light of this, it is unclear why Manitoba Hydro continues to adopt a calculation for the loss of land that is limited to only the transmission tower footprints and ignores the evidence in the MMF Study.</p> <p>The quantum of Crown land permanently lost should be revised to be at least the 290.13 ha identified in the MMF Study as lands permanently lost to the Metis as a result of the project.</p> <p>It is also unclear what Manitoba Hydro means when it says “at least 96.4 ha of offset land.” Does Manitoba Hydro contemplate providing more than 96.4 ha? If so, what criteria will Manitoba Hydro consider expanding the offset lands beyond the ‘at least 96.4 ha’ specified?</p>
10.	<p>2. Overview of Plan 2.1 Offset Measures</p> <p>Page 4</p>	“These offset lands will then be monitored.”	<p>Who will monitor the offset lands? Manitoba Hydro, the Province of Manitoba, the Canada Energy Regulator? Is there a schedule for monitoring implementation? Will this monitoring be conducted indefinitely, or will there be an estimated completion date (following the 5-year timeline)? Will the monitoring be conducted in partnership with the MMF? Will the parameters of the monitoring program be defined in partnership with the MMF?</p>

#	Draft Final Crown Land Offset Measures Plan Section	dfCLOMP Details	Outstanding Comment, Concern, or Question
			<p>This requires extensive consultation to further define and include agreed-upon processes for co-management and ongoing monitoring that includes the MMF to ensure the long-term viability of the CLOMP.</p> <p>See comments below regarding co-monitoring and the development of an Effectiveness Review.</p>
11.	<p>2. Overview of Plan 2.2 Other Components of Plan</p> <p>Page 4 – Page 5</p>	All	Other components of the draft final Plan that are identified as required by Condition 22 still are missing. See Comment #1 (among others) for additional context.
12.	<p>3. Description of Offset Measures</p> <p>Page 6</p>	<p>“Manitoba Hydro took steps to reach out to communities to better understand criteria used to select TLE and other lands of interest in order to avoid having land selections under this Plan conflict with those processes.”</p>	<p>As the MMF has articulated concerns with the consultation process up to and including its June 29, 2020 letter, it is clear that Manitoba Hydro has not undertaken detailed consultation with the MMF about the criteria proposed for selection. Focusing only on First Nation criteria and considering TLE processes to ensure that land selection under the CLOMP doesn’t conflict with those processes does not account for the need to have the Plan:</p> <ul style="list-style-type: none"> i) include Metis-specific criteria/considerations, and ii) avoid conflicts with MMF land-related processes. <p>These Metis-specific land interests and processes include, among other things, the outstanding claim recognized by the Supreme Court of Canada related to the 1.4 million acres of land promised to the Metis in section 31 of the <i>Manitoba Act, 1870</i>, and which the MMF is in active negotiations with Canada about.</p> <p>This section must be revised and additional engagement with the MMF is needed to identify and include Metis-specific and MMF-suggested criteria for land selection and ensure that the CLOMP does not conflict with other MMF processes.</p>
13.	<p>3.1 Manitoba Hydro will create a Trust for land Offsetting Amount and Purposes of Trust</p>	<p>“Manitoba Hydro notes that, while these amounts are considered to be a reasonable estimate of the funds required to achieve the stated purposes, additional contributions will be made if necessary.”</p>	<p>It is unclear when and under what circumstances (beyond environmental site assessments, “municipal expenses” or “administrative costs”) additional contributions to the Trust will be made. What criteria will be used by to assess whether additional contributions are required and what mechanism will be in place to ensure that this considers the input from Indigenous communities,</p>

#	Draft Final Crown Land Offset Measures Plan Section	dfCLOMP Details	Outstanding Comment, Concern, or Question
	Page 6		<p>including the MMF? Currently this reads like an empty promise with no clear criteria of when, or if, it will ever be fulfilled.</p> <p>The CLOMP should have clear triggers for when Manitoba Hydro will be required to add additional funding to the Trust. For example, among other circumstances, Manitoba Hydro should be required to add funding to the Trust if consultation or engagement costs exceed what is currently estimated and the full quantum of lands has not been provided or if land acquisition costs are higher than currently estimated.</p> <p>Manitoba Hydro should engage in further consultation with the MMF to define a clear list of triggers to include in the CLOMP for when Manitoba Hydro is required to add funding to the Trust.</p>
14.	<p>3.1 Manitoba Hydro will create a Trust for land Offsetting Amount and Purposes of Trust</p> <p>Page 6 and 11</p>	<p>“a trust will be created with an initial \$815,000 contribution (the “Contribution”) from Manitoba Hydro, to be known as the “MMTP Crown Lands Offset Measures Trust.”</p> <p>“An external trustee will be appointed to hold the Contribution and to disburse the Trust funds in accordance with the terms of the Trust.”</p> <p>“The terms of the Trust will also provide that any disbursement of a portion of the Contribution will require the written approval of a designated Manitoba Hydro official”</p>	<p>The Trust is a key component in Manitoba Hydro’s CLOMP and ultimately how the Trust is structured and governed will affect the overall effectiveness and implementation of the Plan. Currently the details about the trust are unclear as only limited, summary information has been provided in the dfCLOMP. For example, among other things, how the Trust defines elements such as “available land” and “suitable to support the exercise of traditional Indigenous activities” are unclear so it is impossible to know if this reflects Metis section 35 rights practices or includes the distinct Metis understanding of those terms.</p> <p>In addition, approval of the Indigenous communities, including the MMF, should also be required before a land purchase is made or funds are withdrawn from the Trust.</p> <p>Manitoba Hydro should consult with the MMF on the terms of the Trust and the appointment of the trustee to administer the Trust. In addition, the terms of the Trust should be included in the draft CLOMP shared with the CER as part of its review and approval of the CLOMP.</p>
15.	<p>3.1 Manitoba Hydro will create a Trust for land Offsetting Amount and Purposes of Trust</p>	<p>“a) \$500,000 will be allocated to purchase 96.4 ha of private land in the Area of Interest that is available and suitable to support the exercise of traditional Indigenous activities; . . .</p>	<p>These funding allocations are insufficient.</p> <p>The allocation of \$500,000 is based on an offset land amount of 96.4 ha that, as further outlined above, does not take into account the permanent loss of Crown land to the Manitoba Metis Community resulting from MMTP activities. The MMF</p>

#	Draft Final Crown Land Offset Measures Plan Section	dfCLOMP Details	Outstanding Comment, Concern, or Question
	Page 6	b) \$315,000 will be allocated to support consultation and review of land parcels by Indigenous communities (based on participation by 21 communities)."	<p>Study indicated that there would be a reduction in Unoccupied Crown land of 290.13 hectares. This, at the reduced estimated market value, would require \$1,505,485 (without a multiplier) to be allocated for land purchase; and \$3,887,742 at the highest arable agricultural land easement rate (without a multiplier). With a 4x multiplier, this would require \$6,021,940 (reduced estimated market value) and \$15,550,968 (at the easement rate).</p> <p>Assuming that the \$315,000 is to be evenly allocated between the 21 communities and based on 3 rounds of reviews (as specified on Page 11), this is inadequate funding to ensure that the MMF can meaningfully participate in the CLOMP. As outlined above, this results in \$15,000 per community over 5 years. Is Manitoba Hydro assuming that this funding will cover all costs for the MMF associated with implementing the CLOMP? Including the identification of land parcels, the review of each parcel proposed by Manitoba Hydro or other Indigenous communities, tours or site visits, engaging with Metis citizens and harvesters about the suitability of parcels for exercising their Metis rights, and reporting back to Hydro and the Manitoba Metis Community regarding the parcels? How is this going to be structured/grouped to account for Manitoba Hydro's 3 proposed rounds of review?</p> <p>Manitoba Hydro should increase the funding allocated to the Trust based on a Crown land area of 290.13 ha and highest arable agricultural land easement rate. At a 4x multiplier this would require \$15,550,968 allocated to the purchase of lands. The multiplier should also be further discussed with the MMF.</p> <p>Manitoba Hydro should also engage with the MMF to identify the initial funding allocation for consultation about the parcels and implementation of the CLOMP. This amount should be offered on a per annum basis to the MMF to increase certainty and avoid administrative burdens. In addition, as outlined above, this consultation should follow the MMF's Resolution No. 8 process for consulting with the Manitoba Metis Community.</p>
16.	3.1 Manitoba Hydro will create a Trust for land Offsetting	"During engagement on the November 2019 draft Plan, Indigenous communities shared that they did not agree with the proposed methodology for determining the area of land considered permanently lost for practicing	The Concerns summary as listed is not sufficient to detail the "...issues or concerns raised regarding the plan by Indigenous communities..." and does not give a full picture of the concerns raised. Among other things, it completely neglects to mention the concerns raised by the MMF. This must be presented in a

#	Draft Final Crown Land Offset Measures Plan Section	dfCLOMP Details	Outstanding Comment, Concern, or Question
	Increase in Contribution Since Initial Plan Concerns Page 7	traditional pursuits. Additionally, Sagkeeng First Nation and other communities shared concerns that the \$323,000 figure may not properly account for the uncertainties and unknowns inherent in an offset program. Uncertainties of this offset program included whether acquired land would have the same cultural value as the land that has been lost, the accessibility and comparability of new land to be acquired, and other tangible and intangible factors.”	disaggregated manner so that each issue or concern for each nation can be pinpointed and explored to show the progression from issue/concern raised, to resolution – should resolution have occurred. This summary should be updated to refer to and include the concerns identified by the MMF in its letters on February 14, 2020 and June 29, 2020 as well as concerns raised in this chart.
17.	3.1 Manitoba Hydro will create a Trust for land Offsetting Increase in Contribution Since Initial Plan Justification for Revised Contribution Page 8	“This draft final Plan involves Manitoba Hydro purchasing lands with input from Indigenous communities as opposed to providing funds to a third party to undertake the land purchases. This shift in approach removes or lessens uncertainty in some areas.”	While the approach of providing the funds to third parties was concerning, reliance on Manitoba Hydro to consider input from the MMF in the process of land purchases without a clear role for the MMF in making these decisions is of concern as well. This is particularly concerning as the MMF has repeatedly raised concerns with the CLOMP that have gone unaddressed by Manitoba Hydro (as outlined above). In addition, the MMF has also asked for Manitoba Hydro to enter into alternative dispute resolution processes related to its concerns with Manitoba Hydro failing to implement Conditions 3 and 15 of the Certificate and Hydro has repeatedly refused. In light of this, there is no confidence that Manitoba Hydro will receive and consider input from the MMF in a meaningful way or that it will be willing to address disputes regarding its decisions in land-selection. See comments below regarding the inclusion of a dispute resolution process and the need for a decision-making role for the MMF in the CLOMP.
18.	3.1 Manitoba Hydro will create a Trust for land Offsetting Increase in Contribution Since Initial Plan Justification for Revised Contribution Page 8	“For example, as part of the revised approach, feedback over the course of the Project, as well as specifically on the draft plan, was used to develop draft criteria to guide the selection of land for purchase under the offsetting program. This has removed some of the uncertainty related to what types of land will be targeted and how land purchases under the program will be prioritized.”	As the MMF has articulated concerns with the consultation process up to and including its June 29, 2020 letter, it is clear that Manitoba Hydro has not undertaken detailed consultation with the MMF about the criteria proposed for selection. This section specifies that the draft criteria to guide the selection of land for purchase has been completed and that “uncertainty related to what types of land will be targeted” have been resolved. This is problematic as the MMF has not been consulted on these criteria or to what extent they may resolve uncertainty about Metis-specific land interests.

#	Draft Final Crown Land Offset Measures Plan Section	dfCLOMP Details	Outstanding Comment, Concern, or Question
			<p>The criteria must be considered draft until the MMF can review, provide input, and discuss the MMF-specific/proposed criteria with Manitoba Hydro (see below comments on the proposed criteria for additional details).</p>
19.	<p>3.1 Manitoba Hydro will create a Trust for land Offsetting Increase in Contribution Since Initial Plan</p> <p>Justification for Revised Contribution</p> <p>Page 9</p>	<p>“Manitoba Hydro has also identified a specific area of Manitoba to direct parcel selections, the Area of Focus shown in Map 2, providing greater certainty on actual land values needed for offset lands. Given this, the revised approach now uses current local land value (\$5,189/ha) in the formula to determine funds to be set aside for land purchase. This more accurately reflects the price of the lands most likely to be sought for purchase in the Area of Focus.”</p>	<p>The Area of Focus was selected without consultation with the MMF. As this will be the area to direct parcel selection, the MMF should have been and should be consulted on this Area prior to finalization. In addition, the Area of Focus should not be interpreted in a proscriptive manner by Manitoba Hydro. For example, because the MMF was not consulted on the Area of Focus lands outside of this Area may need to be considered where proposed by the MMF to allow for traditional Metis practices/interests or exercise of Metis rights that are not sufficiently accommodated by available lands proposed by Manitoba Hydro within the Area.</p> <p>Additionally, Manitoba Hydro stated that it used the highest arable agricultural land easement rate of \$13,400 to account for various uncertainties the process (e.g. how land would be prioritized, and what types of land would be selected). These uncertainties still exist. As further outlined below, the dfCLOMP does not provide any indication of how the criteria may be prioritized and provides no role for the MMF in the decision-making process selecting lands. It is unclear therefore, why Manitoba Hydro has proposed reducing the value to \$5,189/ha.</p> <p>This is also incongruent with Manitoba Hydro’s landowner compensation policy that calculates compensation for landowners as current value of the lands, escalated to 150% of its fair market value. By only providing funding based on local land value (e.g. \$5,189/ha), Manitoba Hydro’s dfCLOMP allocates less funding for Indigenous offset lands than provided to landowners in compensation for this same project.</p> <p>See comment #15 above regarding the increase of funding and funding formula for offset lands.</p> <p>Manitoba Hydro should further engage with the MMF regarding the Area of Focus and this area should not be considered/interpreted by Manitoba Hydro in a proscriptive manner in the final CLOMP.</p>

#	Draft Final Crown Land Offset Measures Plan Section	dfCLOMP Details	Outstanding Comment, Concern, or Question
20.	<p>3.1 Manitoba Hydro will create a Trust for land Offsetting Increase in Contribution Since Initial Plan</p> <p>Justification for Revised Contribution</p> <p>Page 9</p>	<p>“For example, some of the permanently lost Crown lands are located within a grassland. Lands used to offset these parcels may be forested. Different traditional activities may take place on those forested lands than those that would have occurred on the grasslands. Some areas that are purchased to offset permanently lost Crown lands may be less desirable than those areas lost. Although an engagement process has been set up to address this concern, there may be a circumstance where a portion of the parcel purchased is not as supportive of traditional activities as might be desired.”</p>	<p>A comprehensive and meaningful consultation process on parcel selection can alleviate the suspected tension when a parcel may not be as supportive of traditional activities as might be desired. These comments directly speak to the requirement to identify the expected effectiveness of each of the proposed measures on each Indigenous community and need for a list of available offset or compensation measures.</p> <p>This is also why Condition 22 referred to a list of offset or compensation measures; so that if “a circumstance where a portion of the parcel purchased is not as supportive of traditional activities as might be desired” results, then another offset or compensation measure could be available to offset this deficit. Currently, Manitoba Hydro’s approach allows for some impacts to persist with no relief or accommodation, which is an unacceptable outcome.</p> <p>See comments above and below regarding the need for the CLOMP to include a list of offset or compensation measures and incorporate a mitigation hierarchy.</p>
21.	<p>3.1 Manitoba Hydro will create a Trust for land Offsetting Increase in Contribution Since Initial Plan</p> <p>Justification for Revised Contribution</p> <p>Page 9</p>	<p>“There is uncertainty related to whether new parcels will support traditional activities at the same level as the parcels being offset. New parcels of land may not be located adjacent to existing Crown land, creating a patchwork of lands rather than a contiguous area.”</p>	<p>This impact was expressed within the Key Findings for Lands Available for Metis Use in the MMF Study, which noted that the remaining unoccupied Crown land within the LAA and RAA following approval would not be contiguous, lacked connectivity and is broadly spaced.</p> <p>The dfCLOMP should be revised to require that Manitoba Hydro should make best efforts to secure contiguous land parcels.</p>
22.	<p>3.1 Manitoba Hydro will create a Trust for land Offsetting Increase in Contribution Since Initial Plan</p> <p>Calculation of Revised Land Allocation</p>	<p>“Manitoba Hydro is planning to adopt Sagkeeng’s suggestion and proposes a multiplier of four (4) for the calculation of permanently lost land in order to account for the above described unknown factors. The surface area under each of the 139 towers on Crown land traversed by the Project totals 24.1 ha. Using a multiplier of four to address the areas of uncertainty described above, the area of permanent loss would be considered 96.4 ha. This area of land multiplied by</p>	<p>Condition 22 specifically requires Crown Land Offset Measures for:</p> <ul style="list-style-type: none"> • Project Activities at Dorsey Converter Station; • The Transmission Tower Locations; and • Any other locations. <p>Manitoba Hydro’s continued approach that <i>only</i> the surface area under each of the 139 towers is inappropriate and does not fulfill the requirements of the Condition. While the addition of a multiplier is appropriate (the size of the</p>

#	Draft Final Crown Land Offset Measures Plan Section	dfCLOMP Details	Outstanding Comment, Concern, or Question
	Page 10	current local land value in the relevant Area of Focus (96.4 x \$5,189/ha) results in a total of \$500,219 as the estimated cost to purchase an equivalent amount of land.”	<p>multiplier should be discussed with the MMF) this does not eliminate the need for an accurate baseline calculation to which that multiplier is then applied.</p> <p>As a starting point, Manitoba Hydro should review the lands identified within the Metis Land Use and Occupancy Study, Assessment of Potential Effects Prior to Mitigation, Manitoba Minnesota Transmission Project (2016) which was provided as evidence to the National Energy Board. This Study identified 290.13 hectares of land converted from Unoccupied Crown land to Occupied Crown land, which will become land permanently lost to the Manitoba Métis Community for pursuing Aboriginal rights and traditional practices. This loss is due to a conveyance of priority rights to Manitoba Hydro whereby MMF community members lose the guarantee of consistently available Unoccupied Crown land. MMF harvesters can be prohibited from accessing the area of the Project Development Area through construction of the Project and, at select times, at Manitoba Hydro’s discretion, for operations and maintenance activities. Therefore, the area of permanent loss that requires offsetting must be revised to be at least 290.13 hectares.</p> <p>Manitoba Hydro must expand the areas where Crown land will be permanently lost to be at least the 290.13 hectares identified as permanently lost to the Metis in the MMF Study.</p> <p>Further, the size of the multiplier and value calculation for these areas should also be subject to consultation with the MMF.</p>
23.	<p>3.1 Manitoba Hydro will create a Trust for land Offsetting Increase in Contribution Since Initial Plan</p> <p>Consultation Allocation</p> <p>Page 11</p>	“Manitoba Hydro understands there will also be costs associated with the review, and the transfer of land parcels. As noted earlier, \$315,000 (21 communities x \$5,000/round x 3 rounds) will be added to the Trust for continued consultation on the land parcel selection and review process. It is not expected that all land parcels will be purchased at once; therefore, up to three rounds of review associated with the selection and purchase of land parcels is assumed.”	<p>See Comment #15 above regarding the funding allocated for the review of parcels and process of review.</p>
24.	3.2 Selection of eligible offset land Selection Criteria	“The criteria for guiding offset land parcel selection is set out below and was derived from feedback received through consultation on this Condition and from	The MMF was not consulted on the criteria guiding offset land parcel selection, as evidenced in its June 29, 2020 letter which indicated that MMF had not been provided a revised copy of the plan and that in light of the generic nature of the Summary Approach was not able to provide exhaustive comments on the actual

#	Draft Final Crown Land Offset Measures Plan Section	dfCLOMP Details	Outstanding Comment, Concern, or Question
	Page 12	understandings shared throughout the Project record by Indigenous participants.”	plan. It is therefore unclear to what extent the criteria developed do in fact reflect Metis understandings rather than follow a pan-Indigenous or First Nations focused approach. Please identify where Manitoba Hydro drew on information from the MMF in the development of the criteria so that the MMF can provide further input and comment on whether this information reflects an accurate understanding of Metis rights and concerns.
25.	3.2 Selection of eligible offset land Table 1: Land Criteria and Rationale Page 12 – Page 13	All	Please clarify whether the Criteria are ranked from 1 – 5, with 1 being most important and 5 least; or whether the Criteria will all be considered equally.
26.	3.2 Selection of eligible offset land Table 1: Land Criteria and Rationale Page 12 – Page 13	Criterion 1. Proximity to Project area (see Map 2) Rationale To focus offsets in undeveloped lands near the Project area within Manitoba	As noted above, the Area of Focus of which this criterion is based, was selected without direct consultation with the MMF on areas preferred for the exercise of section 35 Metis rights. Until this consultation has been undertaken it cannot be known whether undeveloped lands near the Project area are suitable; particularly as it has been noted that these parcels will most likely not be contiguous. See comment #19 above regarding the Area of Focus.
27.	3.2 Selection of eligible offset land Table 1: Land Criteria and Rationale Page 12 – Page 13	Criterion 2. Suitability for exercising Aboriginal and Treaty rights	A distinctions-based approach must be considered in implementing these criteria. Specifically, an approach that reflects that Metis rights are distinct from First Nations rights must be employed. The rationale for this criterion should be revised to include an acknowledgement that a distinction-based approach will be used that includes considering the suitability of a parcel for exercising <i>Metis</i> rights and traditional practices as a distinct factor.
28.	3.2 Selection of eligible offset land Table 1: Land Criteria and Rationale Page 12 – Page 13	Criterion 3. Availability for fair market value Rationale To ensure funds are spent effectively	As it is unclear if the criteria are ranked, it is likewise not clear how the criterion of “available for fair market value” will be interpreted or applied. This criterion should not, for example, be used to exclude a parcel from consideration where it meets other agreed-upon criteria and is identified by an Indigenous community. Instead, additional funds can be allocated by Manitoba Hydro to offset any deficit.

#	Draft Final Crown Land Offset Measures Plan Section	dfCLOMP Details	Outstanding Comment, Concern, or Question
			<p>This section should be revised to reflect that this criterion is not determinative and will not be used by Manitoba Hydro to exclude parcels that are identified by Indigenous communities based on cost alone. See comment #25 above regarding the ranking of criteria.</p>
29.	<p>3.2 Selection of eligible offset land Table 1: Land Criteria and Rationale Page 12 – Page 13</p>	<p>Criterion 4. Parcel not identified as part of TLE</p>	<p>As noted above, this criterion focuses only on First Nation criteria. Considering TLE processes to ensure that land selection under the CLOMP doesn't conflict with those processes does not account for the need to have the Plan:</p> <p>i) include Metis-specific criteria/considerations, and ii) avoid conflicts with MMF land-related processes.</p> <p>See comment #12 regarding further consultation with the MMF to ensure Metis-specific criteria and considerations are included and that the land-selection processes do not conflict with MMF processes.</p> <p>In addition, this criterion should be revised to not be TLE-specific and should include any lands/parcels not identified as part of the fulfillment of an outstanding claim or legal obligations owed by the Crown to an Indigenous community.</p>
30.	<p>3.2 Selection of eligible offset land Table 1: Land Criteria and Rationale Page 12 – Page 13</p>	<p>All</p>	<p>In addition to engaging in discussions with the MMF about developing Metis-specific criteria/considerations to include in the CLOMP, the following criteria should be expressly included:</p> <ul style="list-style-type: none"> • Parcels of contiguous land should be preferred; • Parcels abutting or adjoining <i>Indian Act</i> reserve lands or TLE selections of any First Nation should not be considered; and • Parcels proposed by Indigenous communities should be an express consideration and included in Table 1 as a primary criterion not only a secondary consideration in Table 2. <p>The above revisions should be made to the criteria and dfCLOMP.</p>
31.	<p>3.2 Selection of eligible offset land</p>	<p>All</p>	<p>In addition to engaging in discussions with MMF about developing Metis-specific criteria/considerations to include in the CLOMP, the following characteristics should be modified:</p>

#	Draft Final Crown Land Offset Measures Plan Section	dfCLOMP Details	Outstanding Comment, Concern, or Question
	<p>Table 2: Land characteristics considered for offsetting</p> <p>Page 13 – Page 16</p>		<ul style="list-style-type: none"> the criteria/characteristics should not be limited to only private land as Crown land being sold off by the province should also be considered eligible for inclusion; “undeveloped land” and “land that contains critical habitat or traditional plants” should be separated out from private land as these are distinct characteristics; and “land that contains critical habitat or traditional plants” should clarify that these are to support/related to the exercise of Aboriginal or Treaty rights to avoid this being interpreted as an environmental measure rather than to accommodate/offset impacts on Metis rights. <p>The above revisions should be made to the criteria and dfCLOMP.</p>
32.	<p>3.2 Selection of eligible offset land</p> <p>Table 2: Land characteristics considered for offsetting</p> <p>Page 13 – Page 16</p>	All	<p>The rationale should be expanded to include each Indigenous communities’ oral history testimony, traditional knowledge studies and supporting studies, letters of comment, etc. for each characteristic of land considered suitable for exercising Aboriginal and treaty rights rather than selected examples. This will allow for Indigenous communities to better weigh their input, the input of their peers, and identify where misunderstandings need to be corrected or additional Metis-specific information provided by the MMF.</p> <p>Please identify where Manitoba Hydro drew on information from the MMF in the development of the criteria so that the MMF can provide further input and comment on whether this information reflects an accurate understanding of Metis rights and concerns.</p>
33.	<p>3.2 Selection of eligible offset land</p> <p>Selection Process</p> <p>Page 16</p>	<p>“Parcel descriptions will be developed using both online information and field visits coordinated by Manitoba Hydro, with the opportunity for participation by representatives from the 21 communities.”</p>	<p>Will the proposed field visits/tours be expected to be undertaken using the previously identified \$315,000 consultation support budget or will additional funds be identified to allow for representatives to attend?</p> <p>See comment #15 above regarding insufficient funding allocated for consultation.</p> <p>Please provide additional details regarding funding for the site visits/tours. In addition, Manitoba Hydro should be required to make best efforts to include representatives from each Indigenous community that expresses an interest in site-visits; the CLOMP should be clear that relying on virtual</p>

#	Draft Final Crown Land Offset Measures Plan Section	dfCLOMP Details	Outstanding Comment, Concern, or Question
			<p>tours, photos, or videos is <i>only</i> an option where best efforts have been made.</p>
34.	<p>3.3 Eligible Parcels will be reviewed by communities and Manitoba Hydro</p> <p>Page 17</p>	<p>“In order to accommodate potentially short windows to purchase available parcels of land, communities will initially have seven days to comment on the proposed parcel(s).”</p>	<p>Seven days is an extremely tight timeline that will impair Indigenous participation in the review and selection of the parcels. This is compounded by capacity constraints and inadequate funding provided to participate in the review process (see comment #15 above).</p> <p>It is also unclear whether this is business or calendar days, whether the tour or site visit is also intended to take place within this time period, and how reviews will be managed when information is inadequate or unavailable (e.g. the environmental site assessment may not be available within 7 days of identification).</p> <p>The length of time for review of parcels should be collaboratively developed with the MMF and include, among other things, considerations such as:</p> <ul style="list-style-type: none"> • Alignment with MMF’s Resolution No. 8 process and timelines for consultation; • the number of parcels for review; • the quantity and quality of information for review and consideration; • the time required to conduct a site-visit with MMF representatives in attendance; and • the time required to answer or address any questions that the MMF may have about the parcel.
35.	<p>3.3 Eligible Parcels will be reviewed by communities and Manitoba Hydro</p> <p>Page 17</p>	<p>“Each time a parcel or set of land parcels are considered for purchase, individual communities will be eligible for reimbursement from the Trust for reasonable costs to support their review, consistent with the Manitoba Hydro Reimbursement Policy.”</p>	<p>Rather than a process that requires Indigenous communities to submit costs for reimbursement on an individual, ad-hoc, parcel by parcel basis, Manitoba Hydro should fund an MMTP Crown Land Offset Measures Liaison position for each of the Indigenous communities. Similar to the MMF Hydro Liaison position, that was included in the 2014 Turning the Page Agreement (which subsequently unilaterally terminated by Manitoba), this position would facilitate ongoing engagement between the MMF and Hydro related to the review and implementation of the Plan.</p> <p>Currently, the dfCLOMP process maximizes the administrative burden placed on Indigenous communities, does not allow for efficiency to be built by supporting</p>

#	Draft Final Crown Land Offset Measures Plan Section	dfCLOMP Details	Outstanding Comment, Concern, or Question
			<p>dedicated staff/community capacity for reviewing parcels, and excludes the MMF as Hydro's Reimbursement Policy does not allow MMF staff receiving a salary to be reimbursed for their review/participation.</p> <p>Manitoba Hydro should fund an MMTP Crown Land Offset Measure Liaison position for the MMF, and each Indigenous community, to support the parcel review and implementation work.</p> <p>In addition, the CLOMP should be revised so that reimbursement from the Trust for engagement and parcel identification/review costs is not done on a basis that excludes the MMF from participating, as Hydro's current Reimbursement Policy does.</p>
36.	<p>3.3 Eligible Parcels will be reviewed by communities and Manitoba Hydro</p> <p>Page 18</p>	<p>"Manitoba Hydro will make the final decision regarding which parcels of land to purchase."</p>	<p>As the CLOMP is to specifically address impacts to section 35 rights, the final decision on lands should be made by Indigenous communities, including the MMF, not Manitoba Hydro. True reconciliation comes with an understanding that the Manitoba Metis Federation is the democratically elected self-government representative of the Manitoba Metis Community and must be involved in a decision-making role and capacity in the implementation of the CLOMP.</p> <p>A consensus-based and collaborative decision-making process for deciding on and ultimately purchasing lands should be developed that includes a clear decision-making role for the MMF. This decision-making process should be included in the CLOMP and developed in collaboration with the MMF. It should include, among other things, that Hydro make best efforts to achieve consensus and identify a minimum threshold of Indigenous communities' support before Manitoba Hydro be able to withdraw funds from the Trust to purchase lands.</p>
37.	<p>3.5 Purchase lands will be converted to Crown lands</p> <p>Page 19</p>	<p>"Manitoba Hydro proposes that parcels purchased would be transferred to the Province of Manitoba pursuant to a written agreement or Memorandum of Agreement (MOA)..."</p>	<p>There are still significant concerns and unanswered questions regarding the CLOMP's implementation and the proposed agreement or MOA with the Government of Manitoba. The details of the agreement and mechanism between Manitoba Hydro and the Government of Manitoba are not clear. As the CLOMP hinges on this fact, the draft agreement (or agreements) and mechanisms under discussion between Manitoba Hydro and the Government of Manitoba must be shared with the CER and the MMF, as well as other impacted Indigenous communities, for review. Among other things, there may be distinct concerns and</p>

#	Draft Final Crown Land Offset Measures Plan Section	dfCLOMP Details	Outstanding Comment, Concern, or Question
			<p>risks raised by the MMF that need to be addressed in this agreement that directly relate to the effectiveness of the Plan for the Manitoba Métis Community. For example, among other things, there needs to be a legally binding mechanism in place so that any future Crown lands (and any adjacent Crown lands) will not be able to be added to First Nation reserve lands through TLE selections.</p> <p>Manitoba Hydro must provide a copy of the draft agreement(s) or mechanisms being discussed between Manitoba Hydro and the Government of Manitoba regarding the transfer of offset lands to the provincial Crown to the MMF for review and comment. In addition, a copy of the draft agreement(s) or mechanisms must be included in the CLOMP that is provided to the CER as part of its review of the Plan to ensure that it is implemented in a manner consistent with the honour of the Crown and purpose of Condition 22 as an accommodation measure.</p>
38.	<p>3.5 Purchase lands will be converted to Crown lands</p> <p>Page 19</p>	<p>“...which would require the Province to withdraw the lands from disposition pursuant to s. 5(1) of The Crown Lands Act.”</p>	<p>It is important to note that in the process of converting the land to Provincial Crown land that all current Provincial Crown land regulations will apply. This means that access for non-Indigenous hunters and land users will not be restricted. Therefore, the offset land will most likely be used for activities other than the exercise of Indigenous rights by section 35 rights-holders. Has Manitoba Hydro considered this eventuality in its plan to hand over control to the Provincial Crown? How will this be addressed? How will these secondary impacts be accommodated in the CLOMP?</p> <p>See comments above regarding the need to address this concern through the identification of criteria with the MMF.</p>
39.	<p>3.5 Purchase lands will be converted to Crown lands</p> <p>Page 19</p>	<p>“As of the date of this draft final Plan, the parties have not entered into this arrangement, but have been negotiating an MOA that, in Manitoba Hydro's view, is close to completion.”</p>	<p>It is troubling that, in advance of the dfCLOMP approval by the Canada Energy Regulator, Manitoba Hydro has proceeded to negotiate a MOA that is close to completion. This means that the MMF's involvement in the MOA has been non-existent and there is no guarantee that long-term accommodations to offset impacts to MMF's section 35 Metis rights are being accurately articulated or considered in this agreement.</p> <p>In addition, this draft MOA has not been shared with the MMF for review and comment. As the MMF has raised significant concerns with this component of the CLOMP—and since the MOA has implications for the long-term success or failure of the Plan—a draft of it should be shared with the MMF and the CER.</p>

#	Draft Final Crown Land Offset Measures Plan Section	dfCLOMP Details	Outstanding Comment, Concern, or Question
			<p>See comment #37 above regarding the MMF’s review of contemplated agreement(s) between Manitoba Hydro and the Government of Manitoba.</p>
40.	<p>3.5 Purchase lands will be converted to Crown lands</p> <p>Page 19</p>	<p>“Manitoba Hydro intends the MOA to protect against the risk of the Province disposing of the newly acquired offset lands and to provide a remedy in the event of such disposition.”</p>	<p>It is concerning that Manitoba Hydro <i>intends</i> the MOA to protect against the Province disposing of the newly acquired offset lands but has admitted that this is not guaranteed by the CLOMP. This is of particular concern in relation to the MMF who have already experienced a breach of the honor of the Crown by the Provincial government through a “directive” which purported to direct Manitoba Hydro to not proceed with the accommodation agreement reached with the MMF regarding this project. If the Government of Manitoba can make this sweeping decision that breaches agreements, its own laws, and the honor of the Crown – what will prevent it from disposing the CLOMP offset lands once transferred to them? That would be the definition of leaving the Métis with an empty shell of a promise.</p> <p>The MMF has previously expressed the preference for any offset lands to be provided to the federal Crown in part to alleviate this concern regarding the ongoing honourable implementation of the CLOMP. As this is a federally assigned Condition of approval, this would align with the ultimate responsibility for ensuring that the Condition continued to be fulfilled in a manner consistent with the honour of the Crown.</p> <p>In addition, there has been no consultation with the MMF about what this “remedy” may be should the province dispose of the offset lands. What is the remedy under discussion? Would it be provided by Hydro? By Manitoba? To the Indigenous communities? To Hydro? How does it address and accommodate for impacts on Metis rights? It is entirely unclear.</p> <p>See comment #37 regarding the MMF’s review of the contemplated agreement(s) between Manitoba Hydro and the Government of Manitoba.</p> <p>In addition, Manitoba Hydro must engage with the MMF about what this “remedy” is should the Government of Manitoba dispose of the proposed offset lands once they are transferred to the Crown. In addition, clear and complete information about this “remedy” must be included in the CLOMP that is submitted to the CER for approval.</p>

#	Draft Final Crown Land Offset Measures Plan Section	dfCLOMP Details	Outstanding Comment, Concern, or Question
41.	<p>3.6 Monitoring & reporting Monitoring Page 19</p>	<p>“Once the purchased lands are transferred to the Province and designated as Crown lands, the management and control of these offset lands will be outside of Manitoba Hydro’s purview. It is Manitoba Hydro’s understanding that, once the parcels are converted to Crown Land, the lands would fall under Provincial responsibility and would be managed in a similar manner to existing undeveloped Crown land.”</p>	<p>The ongoing monitoring and management of the offset lands to ensure their continued ability to be lands suitable for the exercise of Aboriginal and Treaty right by Indigenous peoples is a critical component of the effectiveness of the CLOMP as an accommodation measure provided for by the federal Crown. It is not sufficient for Manitoba Hydro to say that after 5 years it has no ability or responsibility to ensure this ongoing management.</p> <p>An ongoing co-management arrangement or agreement (that includes funding for each Indigenous communities’ participation) would be a potential way of addressing this concern. This co- or joint-management agreement should be implemented between Manitoba Hydro and the Indigenous communities as soon as lands begin to be purchased to allow for monitoring and management during the 5 years that Hydro has said it anticipates taking to fulfill the Plan. Funding to support Indigenous communities’ participation in this co-management process must be provided beyond the 5 years (this could potentially be included through additions to the Trust, or provided through other mutually-agreeable means).</p> <p>Manitoba Hydro should consult with the MMF to develop a co-management arrangement for the ongoing monitoring and management of the offset lands. Funding for the MMF’s participation in this co-management process must also be provided. This co-management arrangement must extend for the lifetime of the accommodation measure (e.g. for as long as the lands are being used as an offset for the MMTP).</p>
42.	<p>3.6 Monitoring & reporting Monitoring Page 20</p>	<p>“After all parcels have been purchased, Manitoba Hydro will arrange meeting(s) or offer a survey, either individually or in a group setting, to obtain feedback on the lands purchased and gauge to what extent members of Indigenous communities are using the purchased lands.”</p>	<p>Section 35 Metis rights are not “use it, or lose it” and the efficacy of the CLOMP should not be gauged through the extent it is used by the MMF, rather a review process should be undertaken that considers the intrinsic value the land provides to the Metis community overall and its effectiveness in accomplishing the purpose of Condition 22 (e.g. lands suitable for the exercise of Aboriginal and Treaty rights by Indigenous communities, including the Manitoba Metis Community).</p> <p>During the period that land continues to be identified and selected, the purpose of the effectiveness review can include, among other things, identifying measures to increase effectiveness, incorporating lessons learned, and responding to issues raised by Indigenous communities in the implementation and parcel selection process.</p>

#	Draft Final Crown Land Offset Measures Plan Section	dfCLOMP Details	Outstanding Comment, Concern, or Question
			<p>Once the total offset lands have been identified and protected, the purpose of the effectiveness review should shift to ensuring that the lands continue to be suitable for the exercise of Aboriginal and Treaty rights, including by the Metis. This should include corrective measures or remedies to address future deficiencies in the overall effectiveness of the CLOMP (e.g. environmental remediation if the lands become contaminated in any way, measures to respond to overharvesting or other resource-p pressures, etc.). In particular, specific consideration should be given, on an ongoing basis, to the sustainability of the offset lands in continuing to provide lands suitable for the exercise of Aboriginal rights and traditional practices of the Manitoba Métis Community. With the limited amount of lands available in southern Manitoba, it can be reasonably expected that these offset lands will face increasing pressures that could affect the ability of Indigenous communities to use them for the exercise of their rights (e.g. from non-Indigenous harvesters, etc.). Funding for sustainability measures and corrective stewardship actions to be taken by the MMF, and other Indigenous communities, should be included in the Trust and the Effectiveness Review.</p> <p>The CLOMP should be revised to include a joint Effectiveness Review undertaken by Manitoba Hydro collaboratively with the Indigenous communities, including the MMF. This Effectiveness Review should be completed annually for the first five years (or until the total quantum of land is set aside) and then every five years for the life of the project. Funding should be provided to support the MMF and each Indigenous communities' ability to participate in this review.</p> <p>The CLOMP should state that copies of the Effectiveness Review will be filed with the CER, for approval, to allow the federal regulator to monitor and ensure the ongoing implementation and effectiveness of the CLOMP, as an accommodation measure for impacts on Metis rights, consistent with what is required to uphold the honour of the Crown.</p>
43.	<p>4.0 Summary of consultations on draft plan 4.1 Seeking Feedback Page 21</p>	<p>"Manitoba Hydro asked communities to comment on the November 2019 draft plan. Appendix C describes concerns regarding the draft plan shared in November of 2019. Feedback from Indigenous communities was focused in the following key areas:</p>	<p>This summary of concerns is insufficient in that there is no detail on how the feedback listed was addressed. Was more time and funding provided to consider the information presented? The MMF indicated in its June 29, 2020 letter that there would only be less than three weeks to review the dfCLOMP and provide feedback before the plan will be submitted to the CER. This is not reflective of increased time for review.</p>

#	Draft Final Crown Land Offset Measures Plan Section	dfCLOMP Details	Outstanding Comment, Concern, or Question
		<ul style="list-style-type: none"> - more time and funding were needed to fully consider the information presented; - the discussion of Crown land offsets should be held with leadership, not the MMTP Monitoring Committee; - revising the approach to offsetting to include community input and guidance in land purchases to address concerns related to TLE; - the way permanent loss is defined by Manitoba Hydro is not considered to be inclusive enough as it did not consider the entire right-of-way; and, - there were concerns with the proposed process going through the Province of Manitoba to enable land acquisition.” 	<p>Were the Crown land offset discussions held with leadership? This has not been the case with the MMF as they have only three weeks for review and this leaves little time for leadership engagement.</p> <p>As noted above, the MMF was not engaged to provide community input and guidance in the definition of the criteria to ensure concerns related to TLE or other land selection was considered. Specifically, this is a concern that requires the unique input by the MMF as through TLE processes lands are gained by First Nations but ultimately lost to harvesting and other pursuits by the Metis. This is one clear example where Manitoba Hydro’s pan-Indigenous approach continues to prejudice the Metis.</p> <p>There is no discussion on how Manitoba Hydro is defining ‘permanent loss’ or responding to the MMF, or other Indigenous communities’ concerns, that this definition is minimizing the Crown lands permanently lost due to the project. Manitoba Hydro’s approach of only identifying transmission tower locations as permanently lost has not been altered.</p> <p>Finally, there has been no amendment to the process of using the Government of Manitoba to enable land acquisition despite concerns raised by the MMF.</p> <p>This summary should be updated to include Manitoba Hydro’s responses to the feedback and concerns raised by Indigenous communities, including the MMF.</p>
44.	<p>5.1 Effectiveness of land offsets versus compensation</p> <p>Page 25</p>	<p>“When revisiting the draft final Plan Manitoba Hydro considered if purchasing land offsets or if providing monetary compensation is more effective.”</p>	<p>Land offsets and compensation do not have to be mutually exclusive. For example, if there are three parcels of land conducive to Metis harvesting that are preferred by the MMF, meeting the criteria and available for purchase, but the third parcel is non-contiguous, monetary compensation could be provided for the non-contiguous parcel instead. This could contribute to the overall wellbeing of Metis harvesters while the two contiguous parcels could be incorporated as part of the land offsets.</p> <p>Why is Manitoba Hydro presenting these two options of accommodation as an either, or situation?</p>

#	Draft Final Crown Land Offset Measures Plan Section	dfCLOMP Details	Outstanding Comment, Concern, or Question
			<p>See comment #45 regarding adopting a mitigation hierarchy and revising the CLOMP to include more than one offset measure, including compensation.</p>
45.	<p>5.1 Effectiveness of land offsets versus compensation</p> <p>Page 26</p>	<p>“The mitigation hierarchy discourages the use of compensation as it is viewed as a way for proponents to purchase a license to damage the environment.”</p>	<p>The mitigation hierarchy does not discourage the use of compensation. It is typically viewed as a method to recompense for damages in the case of a project not achieving a net gain. This is particularly important when dealing with impacts to section 35 rights, where the rights may not be fully quantified in a regulatory process, not fully assessed, and impossible to fully offset through one measure. For example, if there are no lands meeting the criteria that include a particular plant or species of cultural significance to the Metis then an effective use of the mitigation hierarchy would allow for other measures or compensation to be provided to harvesters to accommodate this impact. This is also important if Manitoba Hydro proceeds with the Area of Focus where land available may not be contiguous or support similar exercise of rights and the net gain is not possible for section 35 Metis rights.</p> <p>The CLOMP should be revised to include compensation as an offset/accommodation measure.</p>
46.	<p>5.2 Effectiveness of mechanism for selecting and securing offset land</p> <p>Page 27</p>	<p>“The revised Plan outlines a mechanism for the selection of offset land that is effective in striking a balance between the certainty Manitoba Hydro requires to be compliant with regulatory obligations and being inclusive of preferences shared by Indigenous communities. Under the revised Plan, Manitoba Hydro is responsible for identifying eligible parcels of offset land in collaboration with Indigenous communities.”</p>	<p>This section is contradictory to Section 3.6. In this Section, Manitoba Hydro is concerned with the implementation of the CLOMP as a regulatory obligation and eschews relying on external bodies or consensus models of decision making as it introduces risk. However, in Section 3.6, Manitoba Hydro fully abdicates responsibility for the regulatory obligations to the provincial Crown within 5 years once the land has been purchased. This places the offset land at risk as there is no guarantee the Province will not dispose the land following the provision of control. Either relying on external bodies is a risk or it isn't.</p> <p>The dfCLOMP should be revised to be internally consistent on this point.</p>
47.	<p>5.2 Effectiveness of mechanism for selecting and securing offset land</p> <p>Page 27</p>	<p>“Since the offset land that is designated for traditional use will be available to all potentially impacted communities, Manitoba Hydro expects that the Plan will be equally effective for each community.”</p>	<p>Condition 22 requires the CLOMP to identify the effectiveness of the plan on “each Indigenous community.” As noted above, the federal Crown modified Condition 22 as part of fulfilling its duty to consult and accommodate. The duty to consult and accommodate is owed to <i>each</i> impacted Indigenous Community; it is not enough to say, for example, that providing accommodation measures aimed at offsetting impacts on fish apply to all Indigenous communities without knowing whether those Indigenous communities harvest fish (or for that matter, what species of fish, where, and how they harvest).</p>

#	Draft Final Crown Land Offset Measures Plan Section	dfCLOMP Details	Outstanding Comment, Concern, or Question
			<p>Currently, this statement provides insufficient detail for the MMF (or CER) to verify that the plan will in fact be effective for the Manitoba Metis Community. In order to understand the basis on which Manitoba Hydro is making this conclusion, the MMF requests:</p> <ul style="list-style-type: none"> i) Manitoba Hydro’s evidence of the Métis traditional land use practices and exercise of Métis rights; and ii) Manitoba’s Hydro’s analysis of how the proposed land selection area/Area of Focus includes sufficient quantity and quality of lands suitable for the Manitoba Métis Community in light of the information in i). <p>The MMF requests the information on which Manitoba Hydro is relying when making this statement for the Manitoba Metis Community, including the details outlined above.</p>
48.	<p>6.0 Decision-making criteria</p> <p>Page 28</p>	<p>“In response to the concern raised by the Manitoba Metis Federation that Manitoba Hydro has not proposed alternative types of offset/compensation measures and associated selection criteria, Manitoba Hydro clarifies that it does not interpret the condition as including such a requirement. Manitoba Hydro believes that the wording of the condition should be interpreted consistent with its purpose. In developing its Plan, Manitoba Hydro focused on the best means of achieving the purpose of the Plan, which in the case of MMTP is to compensate for the loss of permanent Provincial Crown land that has been used by various Indigenous communities to a similar extent for the exercise of traditional rights. In Manitoba Hydro’s view, the most effective means of addressing this loss is to create more Provincial Crown land that is suitable for use by all impacted Indigenous communities alike. This type of approach is inconsistent with the development of alternative measures that can be elected by individual communities.”</p>	<p>Manitoba Hydro appears to be misconstruing the MMF’s previous statements regarding the need for a Plan that includes a list of offset or compensation measures with an approach whereby “alternative measures . . . can be elected by individual communities.”</p> <p>As outlined above, incorporating a mitigation hierarchy into the CLOMP is distinct from the decision-making criteria that is used in implementing that hierarchy (e.g. whether measures can be elected by communities).</p> <p>Manitoba Hydro must revise this section so that it does not mis-state the MMF’s concern.</p> <p>See Comment #45 for why selecting only one general type of offset measure is not appropriate and why compensation should also be included.</p>

#	Draft Final Crown Land Offset Measures Plan Section	dfCLOMP Details	Outstanding Comment, Concern, or Question
49.	<p>Map 1: A description of site-specific details and maps showing the locations where Crown land is no longer available for traditional use as a result of the Project</p> <p>Page 34 – Page 51</p>	All	<p>Crown land no longer available for traditional use as a result of the Project is not limited to the tower transmission locations as specified in these maps.</p> <p>These maps should be updated in light of the adjusted calculation of permanent loss of land to the Manitoba Metis Community. See Comment #22 for additional details.</p>
50.	<p>Table B-1: Communities included and communication log Manitoba Metis Federation</p> <p>Page 19 – Page 21</p>	All	<p>No details are provided in the record of communication. For example, the record states when letters were sent, and responses provided but there is no detail of what concerns were raised and whether they were addressed to the satisfaction of the MMF. Consultation must be substantive and cannot be just going through the motions to document empty results, as this log currently displays. It is clear from the repeated communication from MMF that the issues with the dfCLOMP have not been resolved to their satisfaction and remain outstanding.</p> <p>The communications log in Table B-1 should be updated to include substantive information regarding the concerns raised, whether Manitoba Hydro responded to those concerns, and if so, what the response was. In addition, this revised information should be provided to the MMF for review and comment to ensure its accuracy.</p>
51.	<p>Appendix C and Table C-2</p>	All	<p>Appendix C does not include the MMF’s comments on the November 2019 draft Plan that were provided to Manitoba Hydro in a letter dated February 14, 2020, or the MMF’s comments on the “Summary Approach” that were provided in MMF’s letter dated June 29, 2020.</p> <p>Appendix C and Table C-2 should be updated to include the information in the MMF’s previous letters and the comments, concerns, and questions in this chart. In addition, this revised information should be provided to the MMF for review and comment to ensure its accuracy. Please include a column in this Table for the MMF to identify whether the concerns/questions have been adequately addressed.</p>

#	Draft Final Crown Land Offset Measures Plan Section	dfCLOMP Details	Outstanding Comment, Concern, or Question
52.	<p>Map 1 Crown land intersected by the Project</p> <p>Page 18</p>	All	<p>Please provide a hectare calculation for the Crown land intersected by the Project that is represented on this map.</p>
53.	N/A	none	<p>The dfCLOMP does not include a dispute resolution process and it is unclear how concerns raised by Indigenous communities regarding the implementation of the plan will be addressed by Manitoba Hydro. This is a particular concern for the MMF who has repeatedly requested that Manitoba Hydro enter into alternative dispute resolution processes with it regarding the implementation of Condition 3 of the Certificate. Manitoba Hydro has repeatedly refused.</p> <p>The CLOMP should be revised to include a dispute resolution process. Manitoba Hydro should engage with the MMF on the development of this dispute resolution process.</p>

Manitoba's August 28, 2020 letter of support and draft Memorandum of Agreement



Agriculture and Resource Development

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August 28, 2020

Mr. James Matthewson
Licensing and Environmental Assessment Department
Manitoba Hydro
5 – 360 Portage Avenue
Winnipeg, Manitoba
R3C 0G8

Dear Mr. Matthewson:

Thank you for your letter of June 9, 2020 requesting Manitoba's additional feedback on the proposed Manitoba-Minnesota Transmission Project – Crown Land Offset Measures Plan pursuant to Condition 22 of the National Energy Board's ("NEB") Certificate of Public Convenience and Necessity EC-059 (issued June 18th, 2019) and our recent meeting of July 15, 2020 to review a draft Memorandum of Agreement (MOA) to facilitate the implementation of the proposed Plan.

As you are aware we have reviewed the revised draft plan and reiterate the importance of recognizing that the Condition set out by the federal regulator is considered by the province to only have relevance to the Manitoba-Minnesota Transmission Project (MMTP). However, in this case, the province agrees that the only way to satisfy the federal regulator's Condition to offset Crown land is through the acquisition of alternate lands. In this regard, the province supports the new proposal by Manitoba Hydro in terms of the now increased offset of up to 96.4 hectares of land based on a 4:1 ratio of the original 24.1 hectares deemed to have been lost.

This letter is in support of Manitoba Hydro's proposal to acquire suitable private land for conversion to Provincial Crown land as part of its Crown Lands Offset Measures Plan. Under the provisions of the attached Draft MOA, lands transferred by Manitoba Hydro to the Province of Manitoba would be accepted by Order in Council and removed from disposition pursuant to The Crown Lands Act in order to preserve those lands as Provincial Crown land in support of ongoing traditional uses by Indigenous People. I am prepared to recommend execution of the attached draft MOA, and when approved will be in a position to carry out the transactions contemplated therein.

Yours Sincerely,

Lori L. Stevenson
Director

cc: Amy Stevenson

THIS MEMORANDUM OF AGREEMENT dated _____, 2020 (the "Effective Date").

BETWEEN:

THE GOVERNMENT OF MANITOBA
as represented by the
MINISTER OF AGRICULTURE AND RESOURCE DEVELOPMENT,

("Manitoba")

- and -

MANITOBA HYDRO,
a Crown Corporation in the Province of Manitoba

("Hydro")

WHEREAS:

- a) Hydro has been granted a Certificate of Public Convenience and Necessity EC-059 for the Manitoba-Minnesota Transmission Project (the "Project") by the former National Energy Board, subject to a number of conditions, including Condition 22 which requires, in part that:
"Manitoba Hydro must file with the Board, for approval, 30 days prior to commencing operations, a Crown Land Offset Measures Plan (the Plan) that outlines how permanent loss of Crown lands available for traditional use by Indigenous Peoples resulting from the Project will be offset or compensated for...";
- b) Hydro has, following engagement with affected First Nations and the Manitoba Metis Federation ("MMF"), developed a draft Crown Land Offset Measures Plan (the "Plan"), a copy of which is attached hereto as Schedule A;
- c) It is central to the Plan that Manitoba Hydro provides a means to offset the permanent loss of certain Crown lands available for traditional use by acquiring privately owned, undeveloped land suitable for traditional use and transferring same to Manitoba;
- d) Pursuant to subsection 5(1) of The Crown Lands Act, C.C.S.M. c. C340 (the "Act"), the Lieutenant Governor in Council has the authority to purchase or lease lands in the Province, and to withdraw Crown lands from disposition under the Act;
- e) Upon approval of the Plan by the Canadian Energy Regulator ("CER"), the successor to the National Energy Board, Hydro will establish a trust for the purpose of acquiring the offset lands (the "Trust"). With the input of affected First Nation communities and MMF, Hydro will acquire suitable lands with a view to acquiring a minimum of 96.4 ha of land to be transferred to Manitoba to offset Crown lands unavailable for traditional use as a result of the Project; and
- f) Manitoba has indicated it is willing to take title to the offset lands for this purpose, and to withdraw the Lands from disposition in accordance with *The Crown Lands Act*, C.C.S.M. c. C340;

NOW THEREFORE, in consideration of the mutual covenants and agreements contained herein and the sum of \$1 and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1) PREAMBLE AND TERM

- a) The Preamble forms an integral part of this Agreement.
- b) This Agreement is effective as at the Effective Date and shall remain in effect until all obligations and undertakings have been fully met and completed, subject to earlier termination in accordance with the terms hereof.

2) CONDITIONS PRECEDENT

- a) This agreement is conditional upon the Canadian Energy Regulator approving the Plan substantially in the form attached hereto as Schedule A. In the event that the Canadian Energy Regulator declines to approve the Plan, or approves the Plan with amendments, Hydro may in its sole discretion decline to proceed with the Plan and/or this Agreement, and this Agreement shall be null and void.

3) PARCELS OF LAND TO BE TRANSFERRED

From time to time during the Term, Hydro shall review prospective parcels of land located within the Province of Manitoba with First Nations and municipality(s) having jurisdiction to locate and determine lands suitable for acquisition. Hydro shall be responsible to negotiate and complete the transaction(s) to obtain title to desired parcels (the "Transferred Lands"), the costs of which shall be paid by the Trust established by Hydro for this purpose.

- a) Hydro shall obtain title to each of the Transferred Lands parcels, and will, if necessary, use best efforts to acquire mines and minerals rights not already held by Manitoba. Hydro shall secure registerable discharges of any encumbrances registered on the title prior to transfer to Manitoba;
- b) At such time or times as is mutually agreed between Hydro and Manitoba and in any event not more than 5 years after the date of commencement of the Trust, Hydro shall deliver registerable Transfer(s) of Land in favour of Manitoba, which will, upon registration be sufficient to cause title to issue, free and clear of all registered encumbrances in the name of Manitoba;
- c) Manitoba shall, within 60 days of Hydro providing notice of its intent to transfer specified Transferred Lands parcels:
 - (i) seek authorization to acquire the Land for the sum of \$1.00;
 - (ii) provide an Order in Council which will authorize the acceptance of the transfer of the Transferred Lands into the name of HMQ in the right of the Province of Manitoba by Order in Council, direct that the Transferred Lands be

removed from disposition and designate the Transferred Lands in support of the ongoing traditional uses by Indigenous People;

(iii) designate and record the terms of the Agreement in the Crown Land Registry;

(iv) designate and record the terms of the Agreement in the Mines Registry; and

(v) take such other steps as Manitoba, in its discretion, views as reasonable and appropriate to fulfill the intent and purpose of this MOA and to reserve the Transferred Lands from development.

d) Hydro shall deliver the Transfer of Land for each of the Transferred Lands parcels subject to the usual adjustments for real property taxes and other adjustments in the ordinary course, in exchange for the sum of \$1.00 and other good and valuable consideration as defined in this Agreement.

4) TRANSFER AND OWNERSHIP OF TRANSFERRED LANDS

a) Manitoba will use best efforts to secure the Order in Council contemplated herein. In the event that the Order in Council is not obtained, or is obtained on terms not satisfactory to Hydro, Hydro may, in its sole discretion, decline to transfer the Transferred Lands parcel(s).

b) Manitoba shall not transfer, dispose of or encumber any Transferred Lands parcel(s) or interest therein without first providing not less than 180 days written notice to Hydro of its intention to transfer, dispose of, or encumber the land or any interest therein. Within 90 days of receiving such written notice, Hydro may, in its sole discretion either:

i. require Manitoba to use its best efforts to obtain an Order in Council authorizing transfer the said Transferred Lands parcel(s) or interest therein to Hydro or its designate, at the same price, and subject to the same adjustments as the affected parcel(s) or interest(s) were first transferred to Manitoba; or

ii. Require Manitoba to pay to Hydro the then current fair market value of the Transferred Lands parcel(s). In this event and should the parties fail to agree as to the fair market value of the said land, it shall be determined by each party obtaining, at their own cost, an external appraisal of the land, to be prepared by a qualified real estate appraiser. Provided that the two appraisals shall not differ in value by more than 10%, the fair market value for the purpose of the transaction shall be the average of the two appraisals. In the event that the two appraisals shall differ in value by more than 10%, then the fair market value shall be determined by a third qualified real estate appraiser acceptable to both parties who conducts a Review Appraisal, as defined by the Canadian Uniform Standards of Professional Appraisal Practice, of the first two appraisals and contains the third appraiser's own estimate of value. In the event that Manitoba is unable to obtain the Order in Council contemplated in subparagraph (i) hereof, the provisions of this subparagraph (ii) shall apply.

- c) In the event that any Transferred Lands parcel(s) or interest therein is the subject of expropriation, then the provisions of subparagraph (b)(ii) shall apply and Manitoba shall pay to Hydro the then current fair market value of the expropriated parcels as determined in accordance with subparagraph (b)(ii) hereof.
- d) Manitoba agrees:
 - i. to manage the Transferred Lands as Crown land and to remove same from disposition. Manitoba will not be obligated to conduct any special patrol or otherwise limit parties from accessing the land for the purpose of hunting, gathering, trapping or other uses as may be permitted by law;
 - ii. to comply with all applicable laws and regulatory requirements, whether federal, provincial or municipal;
 - iii. to advise Hydro in writing within 60 days of the Transferred Lands being removed from disposition as contemplated herein.

5) DISPUTE RESOLUTION

- a) In the case of any dispute between Manitoba and Hydro arising under this Agreement, the parties shall make all reasonable efforts to resolve a dispute by amicable negotiations, and shall meet as often as they consider necessary to discuss and resolve the dispute. If the parties cannot resolve the dispute within a reasonable period of time, then if Manitoba and Hydro so agree, the dispute may be submitted to arbitration in accordance with The Arbitration Act of Manitoba. Manitoba and Hydro may jointly appoint a single arbitrator, or if they fail to agree on such arbitrator, each party shall appoint one nominee to a board of arbitration.
- b) If Manitoba and Hydro do not agree on arbitration, then either party may submit the dispute to such judicial tribunal as the circumstances may require.
- c) Each party shall bear its own attorney's fees, costs and expenses incurred in such dispute resolution and arbitration, unless the arbitration board or judicial tribunal determining the matter orders otherwise.

6) DEFAULT AND TERMINATION

- a) In the event that either party fails to comply with any material term or condition of this Agreement, which default shall not have been remedied within 30 days of written notice of the said default, or where the default cannot reasonably be remedied within 30 days, a plan acceptable to the non-defaulting party provided, the non-defaulting party may seek damages and terminate this Agreement. In the event of termination by Hydro, Manitoba shall forthwith execute and deliver registrable Transfer(s) of Land sufficient to vest title to the Transferred Lands to Hydro, free and clear of all registered encumbrances, at the same price and subject to the same adjustments as the affected parcel(s) were first transferred to Manitoba. In the event of termination by Manitoba, Hydro may, in its sole discretion either:

- i. require Manitoba to transfer the said Transferred Lands or interest therein to Hydro or its designate, at the same price, and subject to the same adjustments as the affected parcel(s) or interest(s) were first transferred to Manitoba; or
- ii. Require Manitoba to pay to Hydro the then current fair market value of the Transferred Lands. In this event and should the parties fail to agree as to the fair market value of the said land, it shall be determined by each party obtaining, at their own cost, an external appraisal of the land, to be prepared by a qualified real estate appraiser. Provided that the two appraisals shall not differ in value by more than 10%, the fair market value for the purpose of the transaction shall be the average of the two appraisals. In the event that the two appraisals shall differ in value by more than 10%, then the fair market value shall be determined by a third qualified real estate appraiser acceptable to both parties who conducts a Review Appraisal, as defined by the Canadian Uniform Standards of Professional Appraisal Practice, of the first two appraisals and contains the third appraiser's own estimate of value.

7) GENERAL

- a) This Agreement shall be interpreted, performed and enforced in accordance with the laws of the Province of Manitoba and of Canada as applicable herein.
- b) The parties shall not assign or transfer this Agreement or any of the rights or obligations under this Agreement without first obtaining written consent from the other party, which consent will not be unreasonably withheld.
- c) No amendment or change to, or modification of, this Agreement shall be valid unless in writing and signed by both parties.
- d) Those sections containing obligations which by their very nature are intended to survive the termination or expiration of this Agreement shall survive.
- e) Expiry or termination of this Agreement shall not affect or prejudice any rights or obligations that have accrued or arisen under this Agreement prior to the time of expiry or termination, and those rights and obligations shall survive such expiry or termination.
- f) Where remedies are expressly afforded by this Agreement, such remedies are not intended to be the sole and exclusive remedies of the parties. The exercise by any party of any rights or remedies under this Agreement shall be without prejudice to any other rights or remedies available whatsoever, including those available at law or equity.
- g) Each of the parties shall, from time to time, do all such acts and things, and execute from time to time all such further documents and assurances, as may be necessary to carry out and give effect to the terms of this Agreement.
- h) This Agreement shall be construed and enforced in accordance with, and the rights of the Parties shall be governed by, the laws of the Province of Manitoba. Each of the Parties hereby irrevocably attorn to the jurisdiction of the courts of the Province of Manitoba.
- i) A waiver of any default, breach or non-compliance under this Agreement is not effective unless in writing and signed by the Party to be bound by the waiver. No waiver shall be

inferred from or implied by any failure to act or delay in acting by a Party in respect of any default, breach or non-compliance or by anything done or omitted to be done by the other Party. Any waiver shall not be construed or operate as a waiver of any rights under this Agreement in respect of any continuing or subsequent default, breach or non-compliance.

- j) This Agreement may be executed in any number of counterparts, each of which shall be considered the original and all of which, together, shall constitute one and the same instrument. The Agreement may be executed in original or by signatures sent and received by facsimile or electronic transmission and the Parties agree that the reproduction of signatures sent and received by way of facsimile or electronic transmission will be deemed as though such reproductions were executed originals thereof.
- k) Time shall in all respects be of the essence in this Agreement.
- l) This document contains the entire agreement between the parties in respect of the subject matter of this Agreement. There are no undertakings, representations or promises, express or implied other than those contained in this Agreement.
- m) Each of the Parties hereto represent and warrants to the other Party hereto that the execution and delivery of this Agreement and the completion of the transactions contemplated hereby have been duly authorized by all necessary action on the part of such Party and that the persons executing this Agreement on behalf of such Party have been duly authorized to do so by such Party.

8) NOTICES

- a) Any notice or other communication under this Agreement shall be in writing and shall be delivered personally or sent by registered mail, postage prepaid, or by way of facsimile transmission as follows:

- i. To Manitoba:

- Director of Lands
Agriculture and Resource Development
POB 20000, 123 Main Street West
Neepawa, MB
R0J 1H0

- ii. To Hydro:

- Manitoba Hydro
360 Portage Avenue
P.O. Box 815 Stn Main
Winnipeg, Manitoba

R3C 2P4

Fax: (204) 360-6138

Attention: Manager, Property and Corporate Environment Department

- b) Any notice or communication sent by registered mail shall be deemed to have been received on the third business day following the date of mailing. If mail service is disrupted by labour controversy, the notice or communication shall be delivered personally or by way of facsimile transmission.
- c) The parties may change the address and other information set out in paragraph a) above by giving notice in writing to the other parties.

This agreement has been executed by THE GOVERNMENT OF MANITOBA AS REPRESENTED BY THE MINISTER OF AGRICULTURE AND RESOURCE DEVELOPMENT and MANITOBA HYDRO as evidenced by the signatures of their respective authorized officers on the dates noted below:

THE GOVERNMENT OF MANITOBA AS
REPRESENTED BY THE MINISTER OF
AGRICULTURE AND
RESOURCE DEVELOPMENT (OR DELEGATE)

Per: _____

Title: _____

Date: _____

MANITOBA HYDRO

Per: _____

Title: _____

Date: _____

Appendix D: List of Offset or Mitigation Measures

Appendix D: List of offset or mitigation measures

Table D-1: List of offset or mitigation measures implemented to address permanent loss of Crown land						
Mitigation hierarchy	Site-specific details and maps	Mitigation measures to be implemented include (but are not limited to) the following:	Project document where details are described	Explanation of expected effectiveness and the relative value of each mitigation/offset measure address permanent loss of Crown land	Decision-making criteria for selecting specific offset measures	Schedule for when measure is implemented and completed
Avoidance	Map 5-6 MMTP-EIS Maps 11-3 to 11-6 MMTP-EIS Various maps within the ITK studies	Route selection considered Crown land specifically through the Community perspective. In addition, the natural perspective considered aquatic and wildlife habitats, various land cover types including grasslands, wetlands and forests as well as other special features such as important bird areas, conservation easements and area of special interest.	Chapter 5 MMTP-EIS Chapter 4 MMTP-EIS Chapter 11 MMTP-EIS ITK studies for the Project.	This is the most effective measure to achieve no net loss. Rationale: Avoiding Crown land leads directly to no net loss.	Chapter 5, MMTP-EIS outlines decision making criteria for the selection of the final preferred route	Pre-construction phase (complete)
Minimization	Maps 11-3 to 11-6 MMTP-EIS Various maps within the ITK studies	First Nations and MMF were given opportunities to identify sensitive sites to help inform the Environmental Protection Program for the Project. Construction techniques will be applied that limit effects on vegetation and plant harvesting. The Botanical Survey of the MMTP included as part of Black River First Nation, Long Plain First Nation and Swan Lake First Nation's ATK report will help inform the Environmental Protection Program for the Project	Chapter 11 MMTP-EIS	These mitigation measures are expected to be very effective. Rationale: adjusting construction practices and minimizing disturbance to sensitive sites will leave the Project footprint compatible with traditional use after the Project is complete.	Input from the FNMEP and ITK studies informed the selection of mitigation measures implemented	Pre-construction phase (complete) and Construction Phase (completed June 2020)
Rehabilitation	Maps 11-3 to 11-6 MMTP EIS Various maps within the ITK studies	The Rehabilitation and invasive species management plan outlines guidelines for rehabilitation by land cover and provides a list of traditional plant species commercially available for rehabilitation	Rehabilitation and invasive species management plan	These mitigation measures are expected to be effective. Rationale: Rehabilitation of natural areas after construction should improve wildlife habitat and vegetation communities important for traditional use.	Input from the FNMEP and ITK studies informed the selection of mitigation measures implemented	Construction and post construction phases (within 12 months of the end of construction)
Offsets	Map 1	<ul style="list-style-type: none"> Measure permanent Crown land loss Calculate Crown land loss compensation Manitoba Hydro to purchase and transfer lands to Province of Manitoba for designation and protection of Crown land 	This Plan (Crown land offset measures plan)	This measure is expected to be effective. Rationale: The purchase of offset land will ensure no net loss of available Crown land in southern Manitoba	Crown land offset dictated by Condition 22 of Certificate EC-059.	Within five years of the agreement being reached with Province

Appendix E: Draft Crown Land Offest Measures Plan

Manitoba-Minnesota Transmission Project

Draft Crown land offset measures plan

November 2019

Prepared by:

Licensing & Environmental Assessment Department

Document Owner
Licensing and Environmental Assessment Department
Transmission Planning and Design Division
Transmission Business Unit
Manitoba Hydro
Version – Draft

List of Revisions

Number	Nature of revision	Section(s)	Revised by	Date

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Preface

This document presents a draft Crown Land Offset Plan (the Plan) for the development of the Manitoba-Minnesota Transmission Project (the Project). It is intended to provide information and generate discussion and feedback with federal and provincial authorities and Indigenous communities for the purposes of developing a final plan.

Regulators and Indigenous communities are encouraged to direct any inquiries about this Plan to their current Manitoba Hydro contact at the Licensing and Environmental Assessment Department

Or alternatively,

Manitoba Hydro
Licensing and Environmental Assessment Department
360 Portage Avenue
Winnipeg, MB
Canada R3C 0G8
1-877-343-1631
mmtp@hydro.mb.ca

1.0 Purpose and objectives

The purpose of this plan is to fulfill the requirements of Condition 22 of the National Energy Board's ("NEB") Certificate of Public Convenience and Necessity EC-059 (received June 18th, 2019).

This plan includes:

- Identification of Crown land affected by the Manitoba-Minnesota Transmission Project (MMTP or 'the Project');
- Description of the potential effects of the Project on Crown land;
- Description of mitigation measures to minimize potential effects of the Project on Crown land;
- Description of offset measures to ensure no net loss of Crown land; and
- Evidence and a summary of how Manitoba Hydro's consultation with potentially affected Indigenous communities, and federal and provincial authorities regarding this Plan, including any concerns that were raised and steps that Manitoba Hydro has taken to address or respond to those concerns.

Additional documentation outlining Manitoba Hydro's commitment to Crown land protection, mitigation, rehabilitation and monitoring for MMTP are outlined in:

- [The MMTP Environmental Impact Statement](#) (Manitoba Hydro 2019);
- [The MMTP Construction Environmental Protection Plan](#) (Manitoba Hydro 2019);
- [The MMTP Construction Environmental Protection Plan Mapbook](#) (Manitoba Hydro 2019);
- [The MMTP Environmental Monitoring Plan](#) (Manitoba Hydro 2019);
- [The MMTP Rehabilitation and Invasive species Management Plan](#) (Manitoba Hydro 2019);
- Throughout the Provincial [Manitoba Manitoba-Minnesota Transmission Project Environment Act licensing process](#) (Government of Manitoba 2019) and [Clean Environment Commission Manitoba-Minnesota Transmission Project public hearing process](#) (Clean Environment Commission 2019); and
- Throughout the Federal [National Energy Board Manitoba-Minnesota Transmission Project public hearing and regulatory process](#), including Manitoba Hydro's Final Written Arguments and National Energy Board Reply Evidence filings (Government of Canada 2019).

2.0 Legal framework

This Plan follows the legal requirements as outlined under Condition 22 of the National Energy Board's ("NEB") Certificate of Public Convenience and Necessity EC-059 described below:

Condition #22. Crown land Offset Measures Plan

Manitoba Hydro must file with the Board, for approval, 30 days prior to commencing operations, a Crown Land Offset Measures Plan (the Plan) that outlines how permanent loss of crown lands available for traditional use by Indigenous Peoples resulting from the Project will be offset or compensated for. The Plan must include:

- a) a description of site-specific details and maps showing the locations where Crown land is no longer available for traditional use as a result of Project activities at Dorsey Converter Station and the transmission tower locations, as well as any other locations;*
- b) a list of the offset or compensation measures that will be implemented to address the permanent loss of crown lands identified in a) above;*
- c) an explanation of the expected effectiveness of each offset measure described in b) for each Indigenous community;*
- d) the decision-making criteria for selecting specific offset measures that would be used and under what circumstances;*
- e) a schedule indicating when measures will be implemented and the estimated completion date(s);*
- f) summary of consultation by Manitoba Hydro with any impacted Indigenous communities and with relevant provincial and federal authorities regarding the Plan;*
and,
- g) this summary must include a description of any issues or concerns raised regarding the plan by Indigenous communities and how Manitoba Hydro has addressed or responded to them.*

This Plan also follows the requirements dictated under the Province of Manitoba's *The Crown Lands Act* (Government of Manitoba 2019).

3.0 Project description

As outlined in Chapter 2 of the MMTP Environmental Impact Statement (EIS), the Manitoba-Minnesota Transmission Project includes a 213 km long, 500 kilovolt alternating current, international power line from the Dorsey Converter Station (located near Rosser, Manitoba) to the United States border crossing near Piney, Manitoba, and modifications to the existing Dorsey Converter Station, the existing Riel international power line and the Riel Converter Station (located near the intersection of Provincial Trunk Highways 101 and 15), and the existing Glenboro international power line and the Glenboro Station (located south of Glenboro, Manitoba).

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4.0 Crown land offset measures

4.1 Crown land use

The assessment of traditional land and resource use considered changes in the availability, including abundance and distribution, of traditionally used resources and changes in access to harvesting and cultural use areas. Key issues identified in self-directed Indigenous Traditional Knowledge (ITK) studies completed for the Project and during Manitoba Hydro's First Nation and Metis engagement process (FNMEP) included limitation of the extent of unoccupied Crown land available to practice traditional activities as a result of the Project.

4.2 Achieving no net loss of Crown land

Achieving no-net-loss of Crown land follows the mitigation hierarchy (Manitoba Sustainable Development 2018, BC Ministry of Environment 2010, Alberta Government 2007) outlined in Table 1.

Table 1. List of offset or mitigation measures implemented to address permanent loss of Crown land

Mitigation hierarchy	Site-specific details and maps ¹	Mitigation measures to be implemented include (but are not limited to) the following: ²	Project document where details are described	Explanation of expected effectiveness and the relative value of each mitigation/offset measure towards achieving the objective of no net loss of wetlands ³	Decision-making criteria for selecting specific offset measures ⁴	Schedule for when measure is implemented and completed ⁵
Avoidance	Map 5-6 MMTP-EIS Maps 11-3 to 11-6 MMTP-EIS Various maps within the ITK studies	Route selection considered Crown land specifically through the Community perspective. In addition, the natural perspective considered aquatic and wildlife habitats, various land cover types including grasslands, wetlands and forests as well as other special features such as important bird areas, conservation easements and area of special interest.	Chapter 5 MMTP-EIS Chapter 4 MMTP-EIS Chapter 11 MMTP-EIS ITK studies for the project.	This is the most effective measure to achieve no net loss. Rationale: Avoiding Crown land leads directly to no net loss.	Chapter 5, MMTP-EIS outlines decision making criteria for the selection of the final preferred route	Pre-construction phase (complete)
Minimization	Maps 11-3 to 11-6 MMTP-EIS Various maps within the ITK studies	First Nations and MMF were given opportunities to identify sensitive sites to help inform the Environmental Protection Program for the Project. Construction techniques will be applied that limit effects on vegetation and plant harvesting. The Botanical Survey of the MMTP included as part of Black River First Nation, Long Plain First Nation and Swan Lake First Nation's ATK report will help inform the Environmental Protection Program for the Project	Chapter 11 MMTP-EIS	These mitigation measures are expected to be very effective. Rationale: adjusting construction practices and minimizing disturbance to sensitive sites will leave the project footprint compatible with traditional use after the project is complete.	Input from the FNMEP and ITK studies informed the selection of mitigation measures implemented	Pre-construction phase (complete) and Construction Phase (completed June 2020)
Rehabilitation	Maps 11-3 to 11-6 MMTP EIS Various maps within the ITK studies	The Rehabilitation and invasive species management plan outlines guidelines for rehabilitation by land cover and provides a list of traditional plant species commercially available for rehabilitation	Rehabilitation and invasive species management plan	These mitigation measures are expected to be effective. Rationale: Proper rehabilitation of natural areas after construction should improve wildlife habitat and vegetation communities important for traditional use.	Input from the FNMEP and ITK studies informed the selection of mitigation measures implemented	Construction and post construction phases (within 12 months of the end of construction)
Offsets	Map 1 and Map 2	<ul style="list-style-type: none"> Measure permanent Crown land loss Calculate Crown land loss compensation Monetary compensation provided to Manitoba MMTP monitoring committee workshop to determine selection criteria 	This plan (Crown land offset measures plan)	This measure is expected to be effective. Rationale: The purchase of offset land will ensure no net loss of available Crown land in southern Manitoba	Crown land offset dictated by Condition 22 of Certificate EC-059.	Within 12 months of project completion

¹ To meet requirements of NEB EC-059 Condition 26 a)

² To meet requirements of NEB EC-059 Condition 26 b)

³ To meet requirements of NEB EC-059 Condition 26 c)

⁴ To meet requirements of NEB EC-059 Condition 26 d)

⁵ To meet requirements of NEB EC-059 Condition 26 e)

4.3 Measuring permanent loss of Crown land

Map 1 shows the locations where transmission towers intersect Crown land. The mapbook (Map 2) provides more detail.

Access to Crown land will only minimally be impacted by this Project, and only for short durations due to construction. Further, Manitoba Hydro's impact to natural habitat is minimal and, in some cases, there are enhancements or additional protections to habitat.

Manitoba Hydro defines "Permanent Loss" as land previously available for traditional use that will no longer be available following completion of construction and rehabilitation. As such, the area of permanent loss includes the total footprint of each tower (square or rectangular area formed by connecting the edge of each tower leg or the area within the extent of the guy wires; Appendix A) on Crown land, including within the Red River Floodway.

On average, the footprint of self-supporting tower structures resulted in 135 m² of Crown land loss and the footprint of guyed tower structures resulted in an average of 3100 m² of Crown land loss. Appendix B provides the details by tower type, dimensions and footprints of the various towers that intersect Crown land

There is no loss of Crown land associated with the Dorsey and Riel converter stations or Glenboro south station. Dorsey converter station expansion to the west is "on Manitoba Hydro-owned property." (Environmental Impact Statement Section 2.4.2.1). Work at both Riel and Glenboro stations will occur within the existing fenced areas (Environmental Impact Statement Sections 2.4.2.2 and 2.4.2.3, respectively).

Where the transmission line right-of-way crosses Crown land, there are 75 guyed towers and 64 self-supporting towers (Table 2).

Table 2. Estimated Permanent Crown land loss (ha) by tower type

Project Component	Tower type	# of Towers	Crown land loss m ²
Towers	Self-supporting	64	8650 (0.865 ha)
	Guyed	75	232,750 (23.3 ha)
Total			241,400 (24.1 ha)

The estimated total area of permanent Crown land loss associated with tower footprints is 24.1 hectares.

4.4 Offset measures

In fulfillment of the federal Crown land offset condition for the Manitoba-Minnesota Transmission Project (MMTP), Manitoba Hydro proposes providing funding to the Province of Manitoba or designated agency for the purchase of offset land in Manitoba.

The province of Manitoba's Lands Branch is responsible for the management of Crown lands. This includes establishing policy, planning, setting fees, reviewing and approving or denying applications, and specifying conditions for sale, lease, permit, or other dispositions. The Lands Branch provides advice and information on matters related to provincial Crown land administration, legislation, policies, procedures and guidelines to the public and provincial, federal, and local governments.

Manitoba Hydro will arrange a facilitated workshop with the MMTP Monitoring Committee to assist with the development of weighted criteria. The weighted criteria along with funding would be provided to the Lands Branch or designated agency to guide the acquisition of land parcels in the Project vicinity in the Province of Manitoba for conversion and protection as Crown land. The weighted criteria should enhance the effectiveness of the Crown land offset by selecting land based on values important to Indigenous communities affected by the Project.

If the MMTP Monitoring Committee is unable to arrive at weighted criteria within a reasonable time frame, Manitoba Hydro will forward feedback received from the MMTP Monitoring Committee to date to the Province of Manitoba's Lands Branch or designated agency for consideration in the land acquisition process.

In order to meet the spirit of the federal condition, the intention is for the acquired land to be designated by the Province of Manitoba as protected Crown land and for the land to be made available to Indigenous Peoples for traditional use.

4.4.1 Calculating Crown land offset compensation

Manitoba Hydro has estimated that approximately 24.1 hectares of Crown land will be permanently lost as a result of the Project (Table 2).

Land value near most crown land traversed by the Project is valued at approximately \$2,100 per acre (or \$5,211.11 per hectare). The monetary value proposed instead uses a high value arable agricultural land easement rate of \$13,400 per hectare, for a total of \$323,000 for the purchase, administration and maintenance of land to be transferred to Crown land (Table 3).

Table 3: Crown land offset calculation

Project Component	Crown land loss (ha)	Valuation	Total Offset
Transmission towers	24.1	\$13,400	\$323,000

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5.0 Summary of engagement regarding Crown land

5.1 Indigenous engagement

5.1.1 Method of engagement

Manitoba Hydro plans to engage with Indigenous communities as indicated in Condition 22 c) and g) with interest in reviewing this draft plan through three mechanisms:

1. Online: An email will go out to all members of the First Nation and Metis Engagement Process (see Chapter 4 of the EIS) and the MMTP Monitoring Committee. The email will contain a link to this draft plan and a summary document and comment form that outlines the approach proposed by Manitoba Hydro to offset Crown lands permanently lost as a result of the Project (see Appendix C for a copy of the email). The proposed approach, the summary document and comment forms, will all be made available online on both the MMTP Project site and the MMTP Monitoring Committee webpage.
2. Phone call: Each community will be contacted directly through a phone call to confirm that a representative received the proposed plan, and the preferred method of engagement for commenting on the plan.
3. In-Person: Should communities share a preference for meeting in person, Manitoba Hydro will meet bilaterally with individual community representatives/leadership. A general MMTP Monitoring Committee meeting will be held so communities can discuss concerns collaboratively, if desired, and a facilitated discussion with Manitoba Hydro representatives can take place.

5.1.2 What we heard and how it will influence the plan

Feedback is expected to be received through multiple mechanisms. Manitoba Hydro will create a table to be included as an appendix to this draft plan that includes feedback received in person, in written form and via comment forms. The table will include a column that provides a description of how Manitoba Hydro will address or respond to issues or concerns raised regarding the plan.

Manitoba Hydro will consider feedback and adapt the plan based on comments received, cost and precedence to similar programming in other jurisdictions.

5.1.3 Next steps

All comments and concerns received by January 17th, 2020 will be included in the table described above, and a final plan will be sent to all participants in the First Nation and Metis Engagement Process (which includes the MMTP monitoring committee).

The final plan will also be submitted to Provincial and Federal Authorities as described below.

5.2 Federal and Provincial Authorities

5.2.1 Method of Engagement

Feedback will be sought from relevant provincial and federal authorities regarding the draft plan. Both the federal and provincial authorities will be engaged through a formal email and letter, followed up with a phone call to clarify any questions.

5.2.2 What we heard and how it influenced the plan

Feedback is expected to be received through multiple mechanisms. Manitoba Hydro will create a table to be included as an appendix to this draft plan that includes feedback received from each Authority. The table will include a column that provides a description of how Manitoba Hydro will address or respond to issues or concerns raised regarding the plan.

Manitoba Hydro will consider feedback and adapt the plan based on comments received, cost and precedence to similar programming in other jurisdictions.

5.2.3 Next steps

Following consultation with Provincial and Federal Authorities the filed plan will be posted online and submitted for approval. Indigenous communities will be notified of this submission.

6.0 References

Clean Environment Commission. 2019. Manitoba- Minnesota Transmission Project. Public Hearing Results. Available online: www.cecmanitoba.ca/hearings/43/index.html#1

Government of Canada. 2019. National Energy Board. MMTP. Available online: <https://www.cer-rec.gc.ca/pplctnflng/mjrpp/mntbmnnst/index-eng.html>

Government of Manitoba. 2019. Environmental Approvals Branch - Public Registry. Available online: <https://www.gov.mb.ca/sd/eal/registries/5750mbhydrombminnesota/index.html>

Manitoba Hydro. 2019. Manitoba-Minnesota Transmission Project Environmental Impact Statement and Document Library. Winnipeg, Manitoba. Available online: https://www.hydro.mb.ca/projects/mb_mn_transmission

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Map 1 Crown land intersected by the Project

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Manitoba-Minnesota Transmission Project

Project Infrastructure

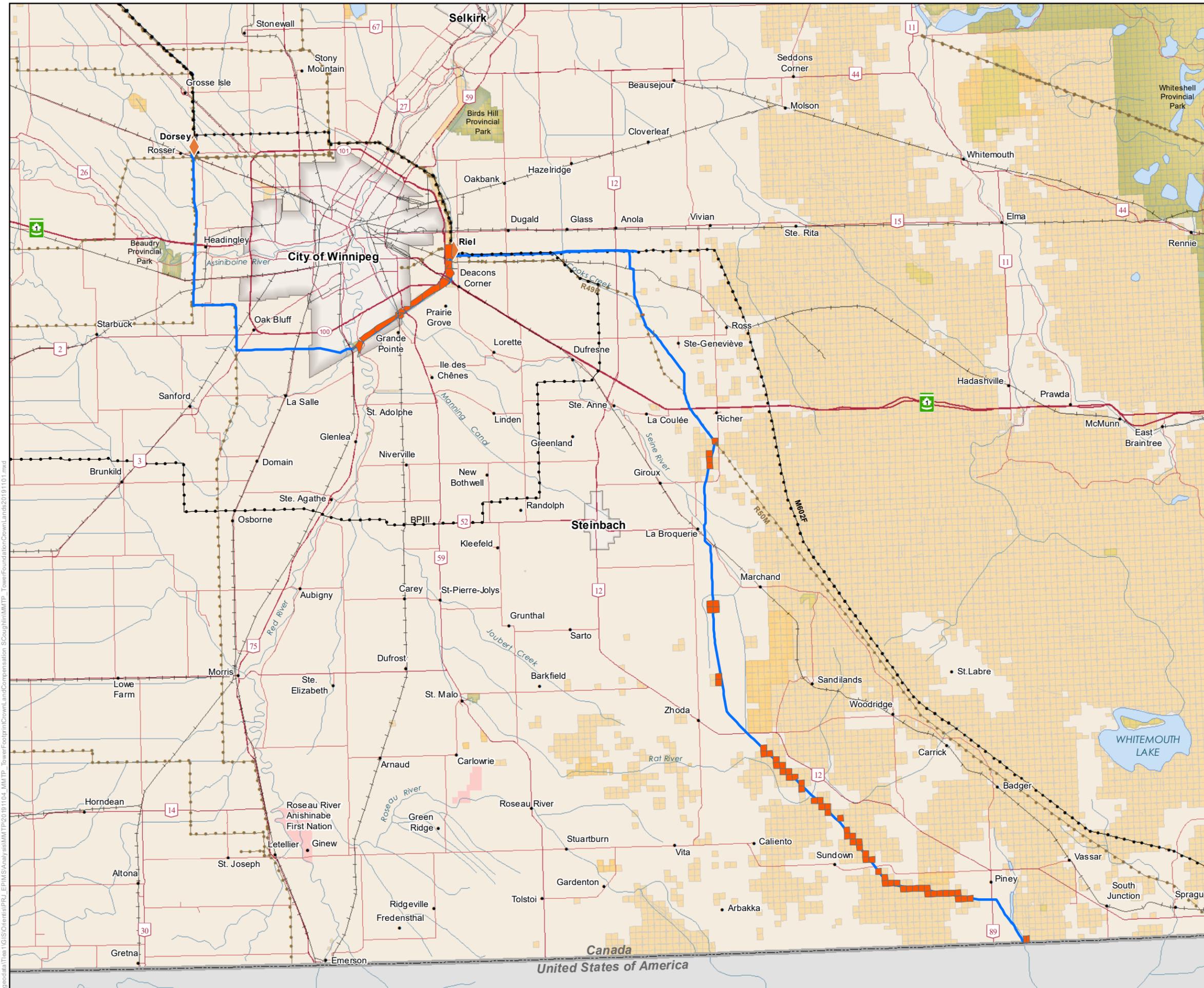
- Converter Station (Existing)
- Crown Lands/Tower Footprint Intersection

Infrastructure

- Existing 500kV Transmission Line
- Existing 230kV Transmission Line

Landbase

- Community
- Railway
- Trans Canada
- Provincial Highway
- Provincial Road
- City
- First Nation
- Ecological Reserve
- Wildlife Management Area
- Provincial Park



Coordinate System: UTM Zone 14N NAD83
 Data Source: MBHydro, ProMB, NRCAN
 Date Created: November 06, 2019



Crown Lands Parcels with Towers

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Map 2 Transmission infrastructure intersecting Crown lands mapbook

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Manitoba - Minnesota Transmission Project

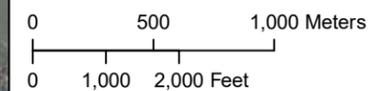
Project Infrastructure Access

- Tower Location in Crown Land
- Tower Location
- Angle Tower Location
- Final Preferred Route
- Right of Way
- Converter Station

Landbase

- Trans-Canada Highway
- Provincial Trunk Highway
- Provincial Road
- Municipal Road
- Rail
- Electrical Station
- Crown Lands
- Rural Municipality

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Data Source: MBHydro, ProvMB
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Transmission Infrastructure Intersecting Crown Lands



Manitoba - Minnesota Transmission Project

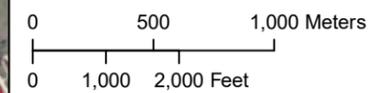
Project Infrastructure Access

- Tower Location in Crown Land
- Tower Location
- Angle Tower Location
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- Right of Way
- Converter Station

Landbase

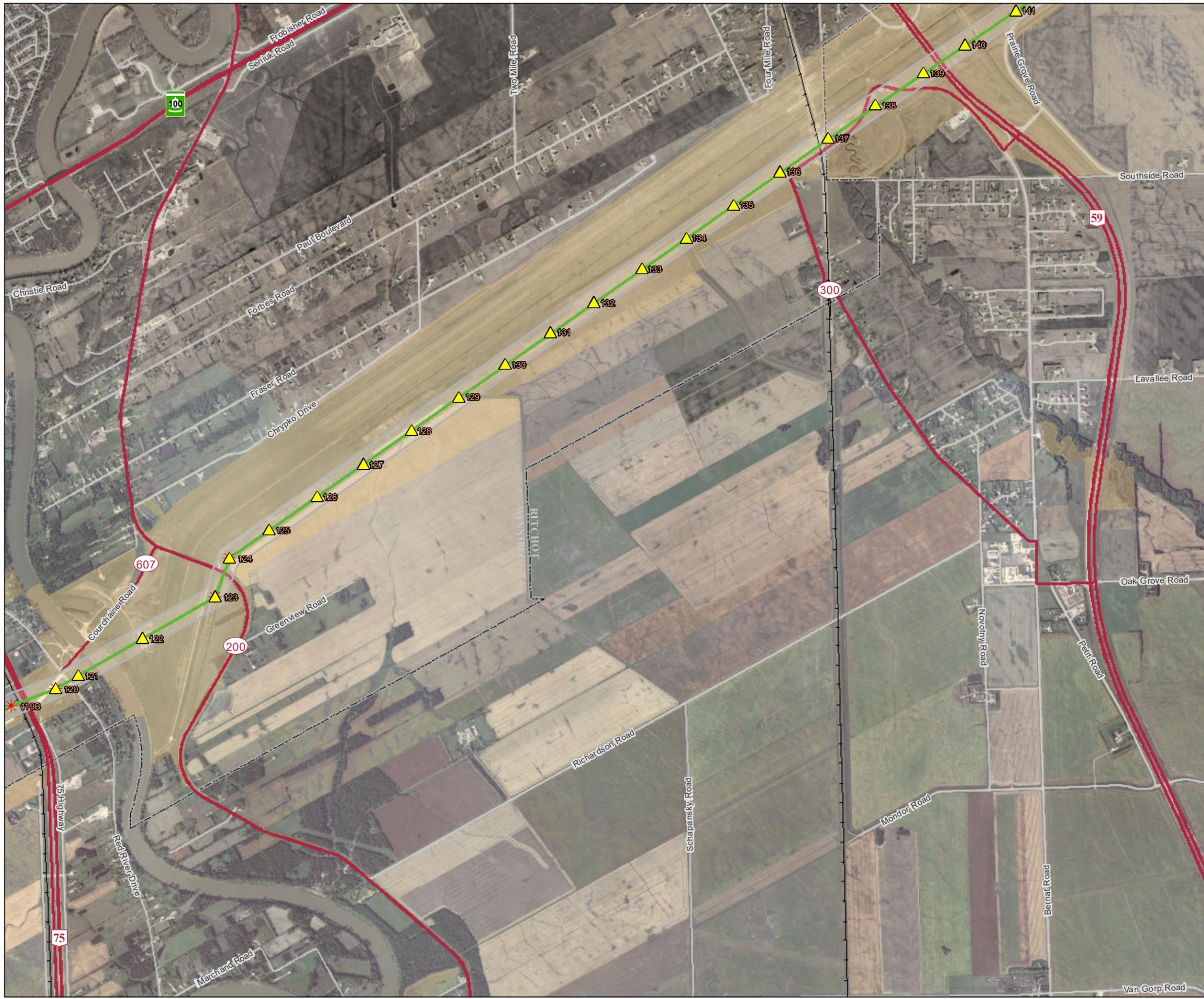
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- Rail
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- Crown Lands
- Rural Municipality

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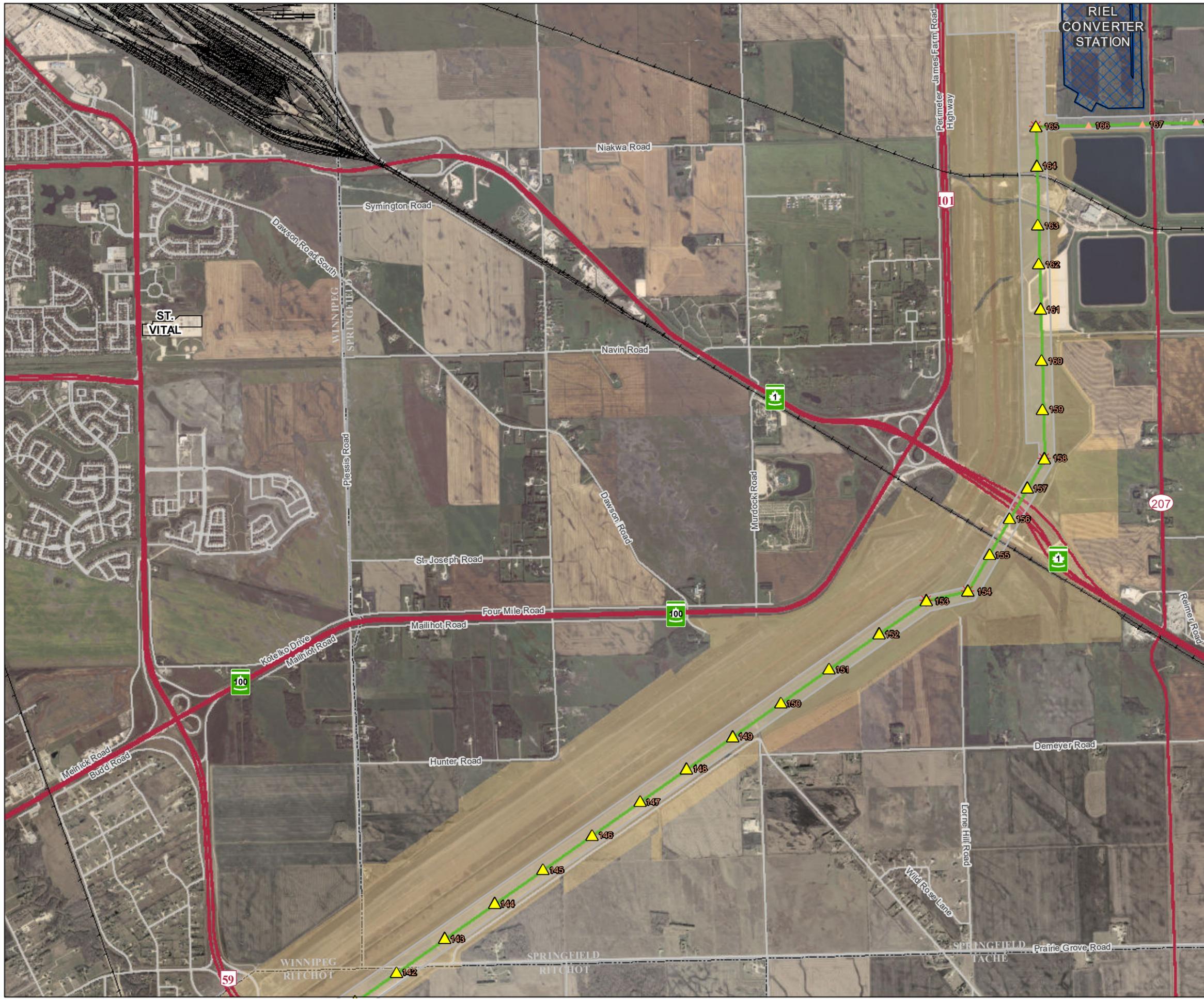
Manitoba - Minnesota Transmission Project

Project Infrastructure Access

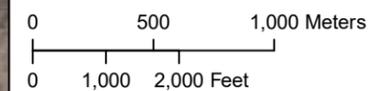
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Landbase

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- Municipal Road
- Rail
- Electrical Station
- Crown Lands
- Rural Municipality



Coordinate System: UTM Zone 14N NAD83
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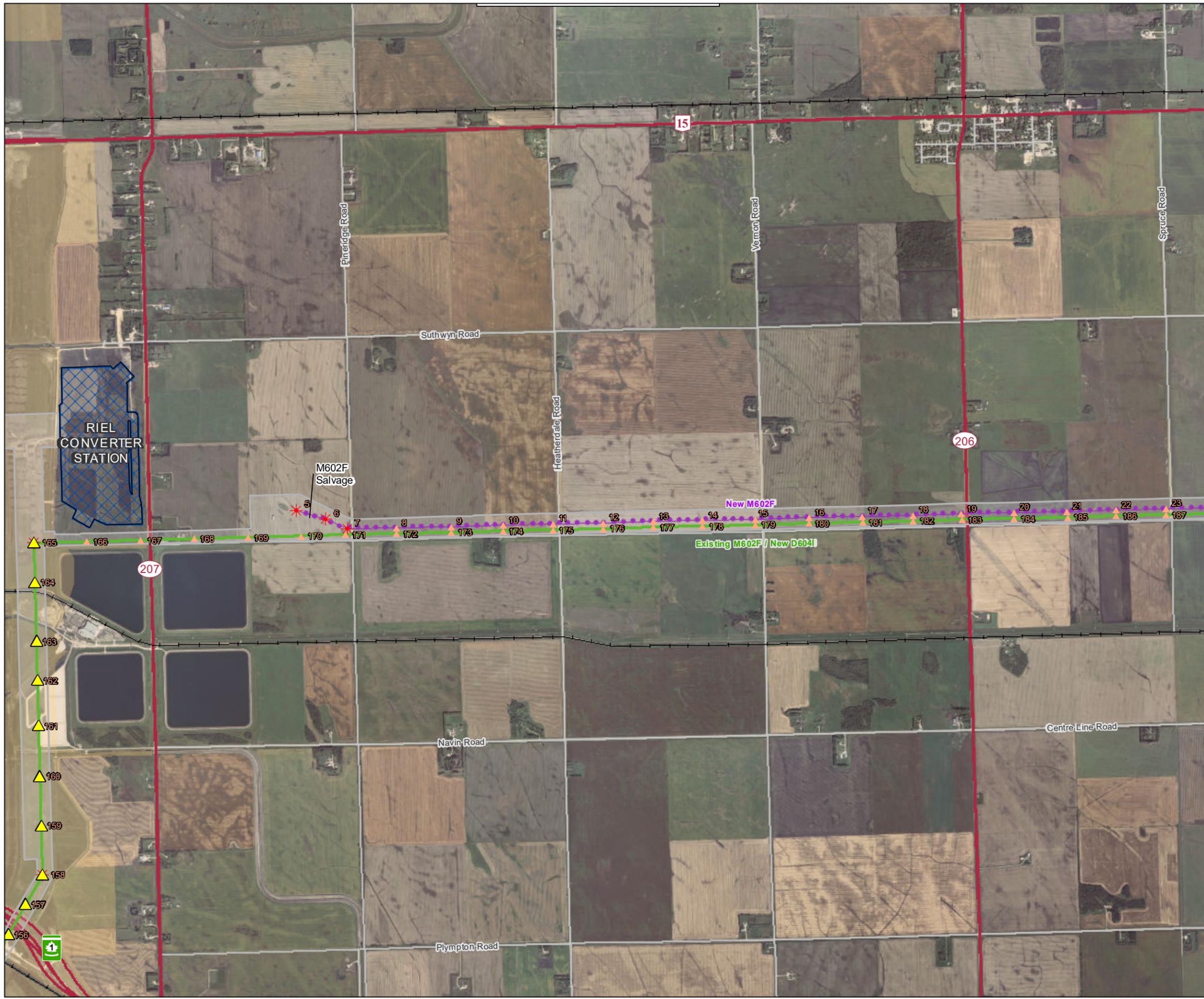
Transmission Infrastructure Intersecting Crown Lands

Project Infrastructure Access

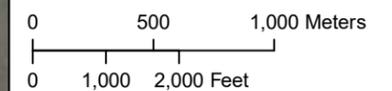
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- Right of Way
- Converter Station

Landbase

- Trans-Canada Highway
- Provincial Trunk Highway
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- Rural Municipality



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**Transmission Infrastructure
Intersecting Crown Lands**

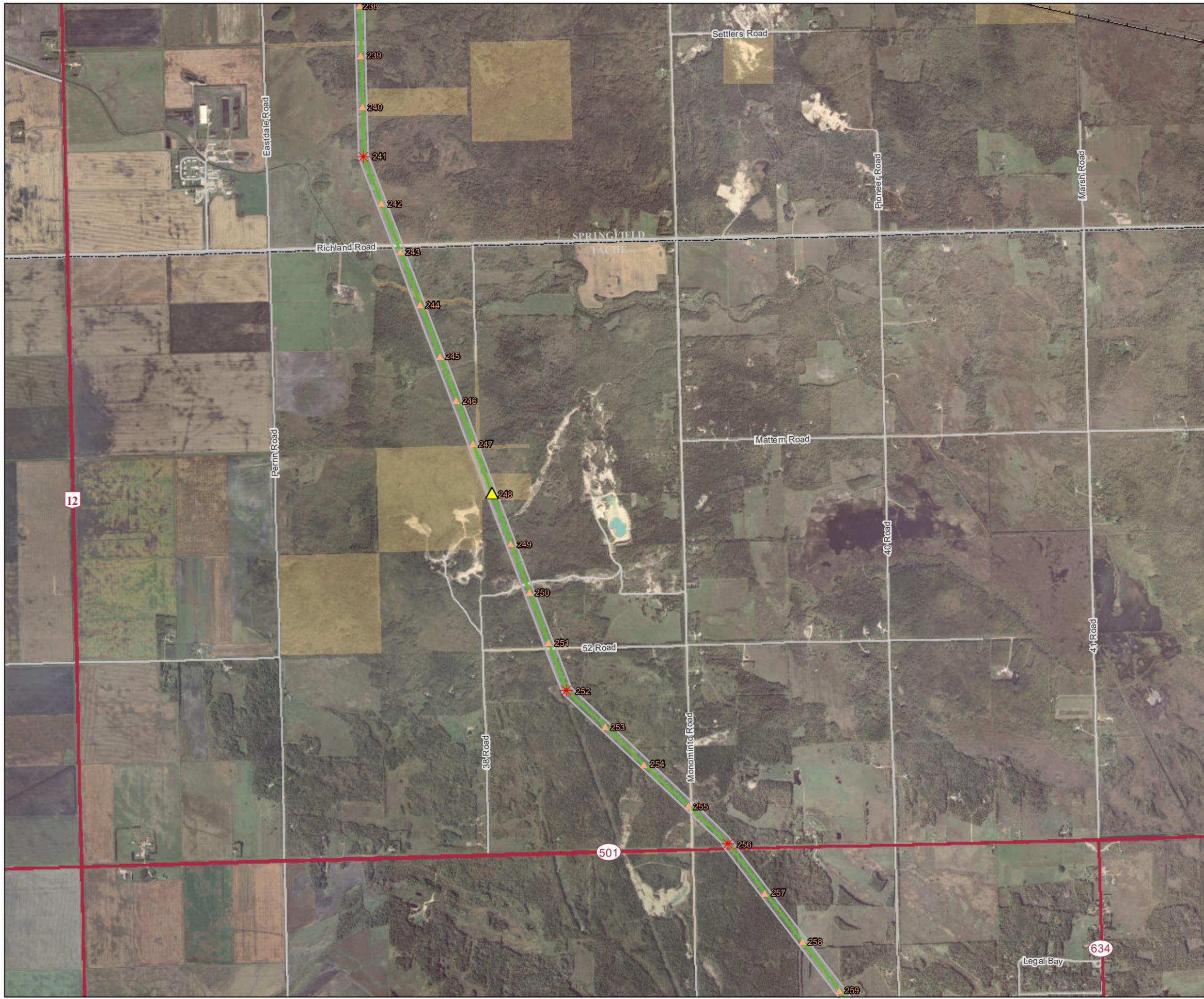
Manitoba - Minnesota Transmission Project

Project Infrastructure Access

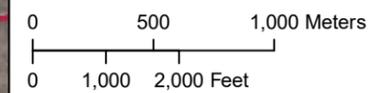
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- Tower Location
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Transmission Infrastructure Intersecting Crown Lands

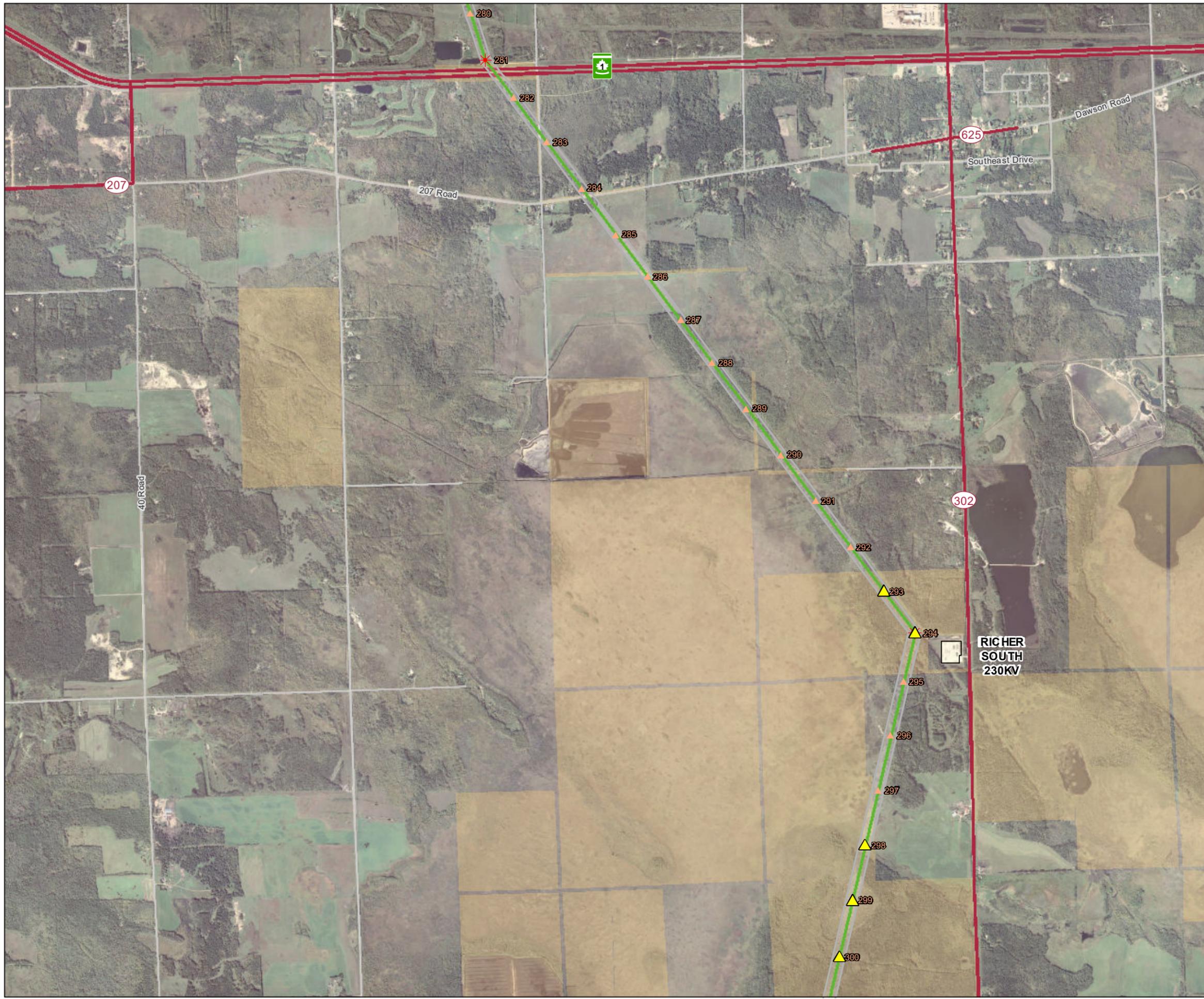
Manitoba - Minnesota Transmission Project

Project Infrastructure Access

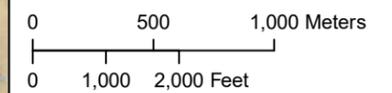
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- Rural Municipality



Coordinate System: UTM Zone 14N NAD83
 Data Source: MBHydro, ProvMB
 Date Created: November 13, 2019



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Transmission Infrastructure Intersecting Crown Lands

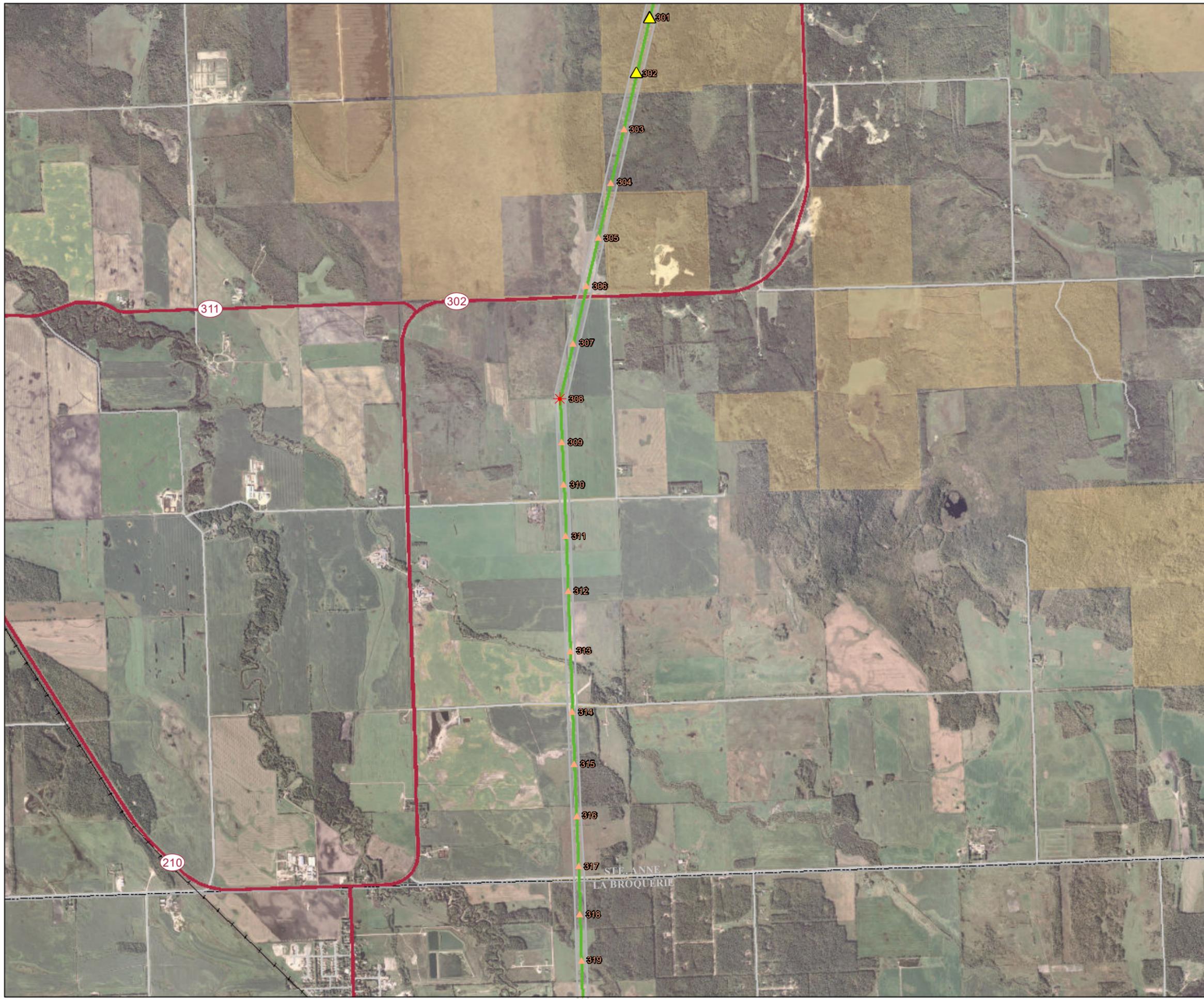
Manitoba - Minnesota Transmission Project

Project Infrastructure Access

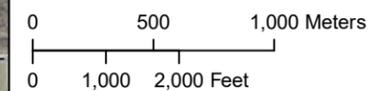
- Tower Location in Crown Land
- Tower Location
- Angle Tower Location
- Final Preferred Route
- Right of Way
- Converter Station

Landbase

- Trans-Canada Highway
- Provincial Trunk Highway
- Provincial Road
- Municipal Road
- Rail
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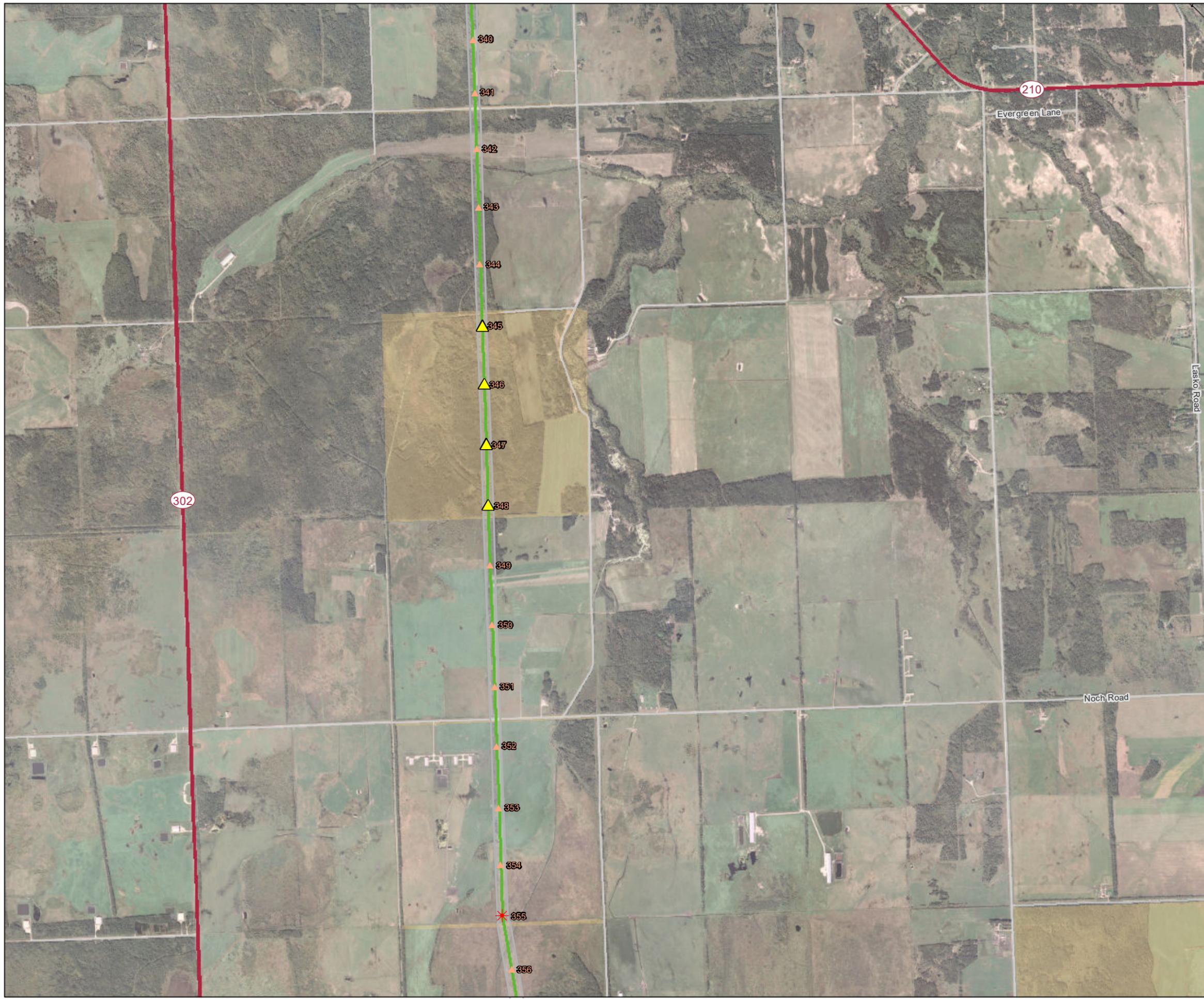
Manitoba - Minnesota Transmission Project

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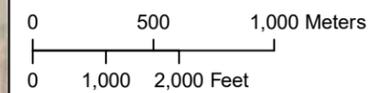
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Transmission Infrastructure Intersecting Crown Lands

**Manitoba - Minnesota
Transmission Project**

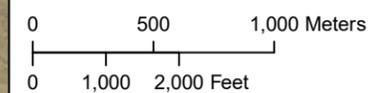
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**Transmission Infrastructure
Intersecting Crown Lands**



**Manitoba - Minnesota
Transmission Project**

Project Infrastructure Access

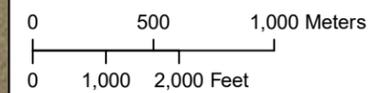
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**Transmission Infrastructure
Intersecting Crown Lands**

Manitoba - Minnesota Transmission Project

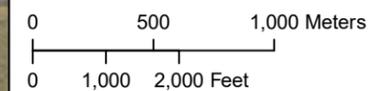
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Transmission Infrastructure Intersecting Crown Lands



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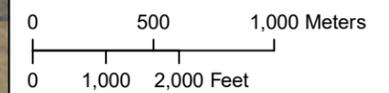
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Transmission Infrastructure Intersecting Crown Lands

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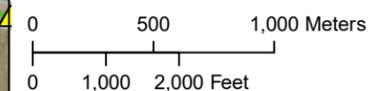
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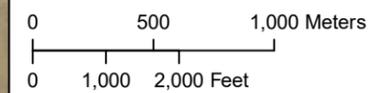
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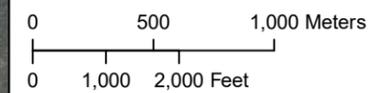
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Transmission Infrastructure Intersecting Crown Lands

Appendix A Illustration of permanent loss by tower

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MANITOBA-MINNESOTA TRANSMISSION PROJECT

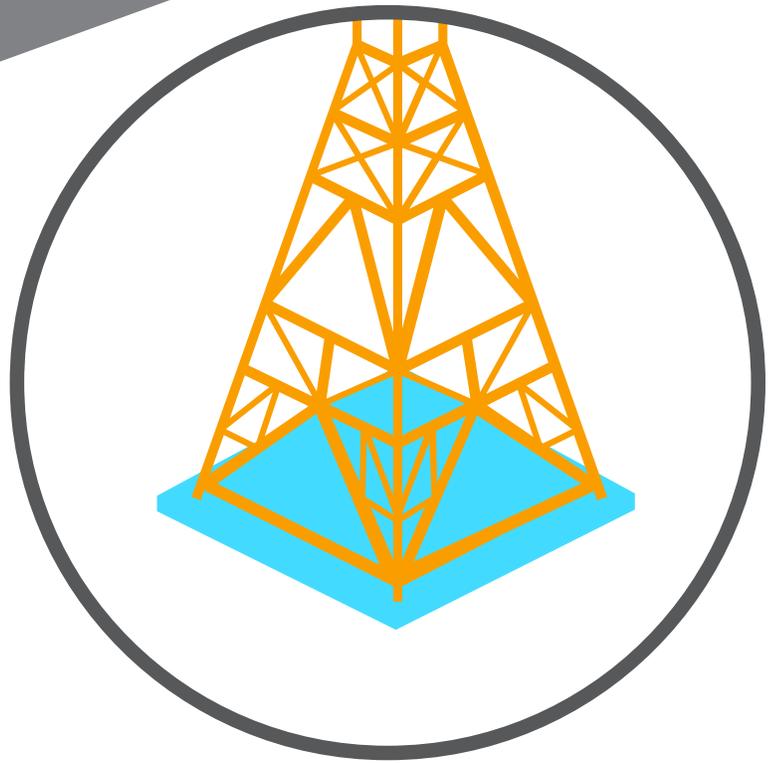


Permanent loss

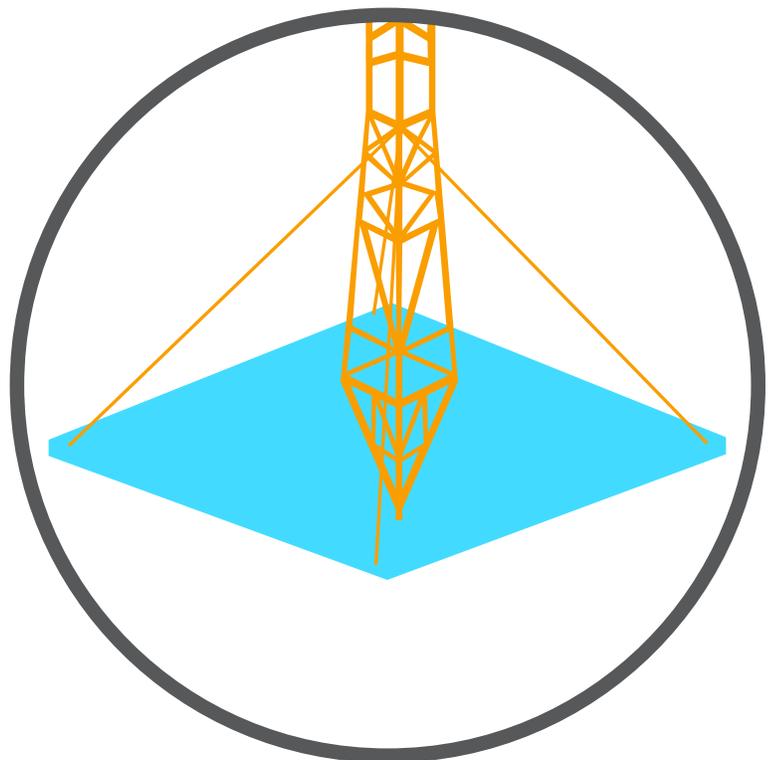
Area of loss dependant
on individual tower

CROWN LANDS

Permanent loss of Crown lands
for traditional use



Self-supporting structure



Guyed structure

Appendix B MMTP Crown land loss calculation dataset

Tower Type	Tower base dimensions (mxm)	Tower Footprint (m ²)	# of towers	total footprint (m ²)*
A-550-0+0	8.7x8.7	76	3	227
A-550-0+3	9.4x9.4	88	5	441
A-550-0+6	10.0x10.0	100	8	700
A-550-0+9	10.8x10.8	116	28	3236
A-550-0+12	11.4x11.4	130	7	910
C-550-0+0	12.2x12.2	149	3	447
C-550-0+6	14.4x14.4	207	3	622
D-550-0+0	14.9x14.9	222	1	222
D-550-0+6	17.4x17.4	303	1	303
D-550-0+9	18.6x18.6	346	1	346
A-551-0+3	48.3x55.1	2661	14	37259
A-551-0+6	52.5x59.3	3113	38	115575
A-551-0+9	56.8x63.6	3612	1	64797
B-551-0+0	43.9x50.7	2226	1	2226
B-551-0+6	52.4x59.2	3102	3	9306
B-551-0+9	56.6x63.4	3525	18	3588
X-550-0	16.7x16.7	278	3	835
C-550-0+22	19x19	361	1	361
TOTALS			139	241,401 m²

*total footprint does not equal # of towers x tower footprint as some towers were not entirely on Crown Land

Appendix C Email to First Nation and Metis Engagement Process participants and the MMTP Monitoring Committee

DRAFT

Appendix D Feedback received and summary of issues and concerns raised by Indigenous communities and how they were addressed (to be populated once provided)

g) this summary must include a description of any issues or concerns raised regarding the plan by Indigenous communities and how Manitoba Hydro has addressed or responded to them.

Placeholder for responses to plan and how they were addressed.

DRAFT

Appendix E Feedback received from each authority (to be populated once provided)

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Available in accessible formats upon request