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Cynthia Ritchie  
Manitoba Transportation and Infrastructure  
1520-215 Garry Street  
Winnipeg, MB R3C 3P3  
[Cynthia.Ritchie@gov.mb.ca](mailto:Cynthia.Ritchie@gov.mb.ca)

Sent via e-mail

**SUBJECT: Technical Review of Manitoba Transportation and Infrastructure's Information Request Round 3 Responses for the Lake Manitoba and Lake St. Martin Outlet Channels Project – Clarification Questions**

Dear Cynthia Ritchie,

The Impact Assessment Agency of Canada (the Agency), with input from federal authorities, Indigenous groups, and the public, conducted a technical review of the responses to the Round 3 Information Requests (IRs) submitted by Manitoba Transportation and Infrastructure (MTI) on October 31, 2023, for the Lake Manitoba and Lake St. Martin Outlet Channels Project (the Project).

Upon review of the information, the Agency determined that there are areas where information still requires clarification to assist the Agency's understanding of the potential adverse environmental effects that the Project may cause, and inform the Agency's preparation of the draft Environmental Assessment (EA) Report pursuant to CEAA 2012. It will also support continued engagement and consultation with the potentially affected Indigenous groups and assist the Crown to fulfill its duty to consult. Attached are Clarification Questions based on MTI's responses to the Round 3 IRs, to address the remaining information required.

All submissions with respect to the technical review of MTI's Round 3 IR responses will be made publicly available on the Canadian Impact Assessment Registry (Reference #80148). MTI is encouraged to review all the comments submitted as they include detailed information and advice to support MTI in responding to the Clarification Questions.

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When responding to the Clarification Questions, the Agency requests that MTI:

- consider the context and rationale for the required information for every question;
- present thorough discussions of any areas of uncertainty, applying a precautionary approach, given that some studies and plans may not be complete at this time;
- where uncertainty remains, provide clearly defined, detailed follow-up program measures, including proposed further mitigation measures; and
- present complete or summarized information and discussion within the responses, rather than limited responses and references to applicable reports.

The Government of Canada is integrating consultation with Indigenous groups into the EA process for the Project, to the extent possible, to fulfill its duty to consult, and where appropriate, accommodate. As noted in the Environmental Impact Statement Guidelines, the Crown will rely on information collected for the purposes of the EA to fulfill its duty to consult and inform its assessment of potential impacts on the exercise of Aboriginal or Treaty rights.

Should MTI have any questions regarding the technical review of the responses to Round 3 IRs, please contact me at Sean.Carriere@iaac-aeic.gc.ca or 416-436-7357.

Sincerely,

Sean Carriere  
Regional Director, Prairie and Northern Region

**c.c. :** Jaime Smith, Manitoba Transportation and Infrastructure  
Scott Johnstone, Manitoba Transportation and Infrastructure  
Alexandre Machado, Manitoba Transportation and Infrastructure  
Vivienne Wilson, Impact Assessment Agency of Canada  
Ian Martin, Impact Assessment Agency of Canada

## Lake Manitoba and Lake St. Martin Outlet Channels Project – Clarification Questions – December 2023

### List of Acronyms and Abbreviations

Acronym or Abbreviation	Definition
ATV	All Terrain Vehicle
EAC	Environmental Advisory Committee
EIS	Environmental Impact Statement
FRCN	Fisher River Cree Nation
HRPP	Heritage Resource Protection Plan
IAAC	Impact Assessment Agency of Canada
IK	Indigenous Knowledge
INFC	Infrastructure Canada
IRTC	Interlake Reserves Tribal Council
km	Kilometre
LMOC	Lake Manitoba Outlet Channel
LSMOC	Lake St. Martin Outlet Channel
MMF	Manitoba Metis Federation
MTI	Manitoba Transportation and Infrastructure
PFN	Pinaymootang First Nation
SAFN	Sagkeeng Anicinabe First Nation
SBOFN	Sandy Bay Ojibway First Nation
WCS	Water Control Structure
YFFN	York Factory First Nation

**Lake Manitoba and Lake St. Martin Outlet Channels Project – Clarification Questions – December 2023**

Clarification Question Number	Referenced Round 3 IR(s)	Expert Dept. or group	EIS Guideline Reference	Context and Rationale	Clarification Questions for the Information Request Responses
IAAC-04-01	IAAC-R3-07	<p>Fisher River Cree Nation</p> <p>IAAC</p> <p>Infrastructure Canada</p> <p>Interlake Reserves Tribal Council</p> <p>Manitoba Metis Federation</p> <p>Pinaymootang First Nation</p> <p>Sagkeeng Anicinabe First Nation</p> <p>Sandy Bay Ojibway First Nation</p> <p>York Factory First Nation</p>	<p>7.1.10 Indigenous Peoples</p> <p>7.3.3 Indigenous Peoples</p>	<p>The EIS Guidelines require a documentation of potential adverse impacts of the project on potential or established Aboriginal or Treaty rights when this information is provided by a Indigenous group and notes that the information sources, methodology and findings of the assessment of paragraph 5(1)(c) effects under CEAA 2012 may be used to inform the assessment of potential adverse impacts of the project on potential or established Aboriginal or Treaty rights. However, it also notes that there may be distinctions between the adverse impacts on potential or established Aboriginal or Treaty rights and paragraph 5(1)(c) effects under CEAA 2012. Therefore, the EIS Guidelines require the Proponent to carefully consider the potential distinction between these aspects and where there are differences, and will include the relevant information in its assessment.</p> <p>In response to IAAC-R3-07, the Proponent provided Table IAAC-R3-07-1 which identifies the pathways of impacts to rights and lists which Indigenous groups have identified these pathways. However, it does not provide a discussion of why the listed Indigenous groups will be impacted through those pathways and why others will not, or how they will be impacted specifically.</p> <p>The example provided within the context and rationale of IAAC-R3-07 noted that Fisher River Cree Nation (FRCN) indicated that the potential impacts of the Project on their specific uses and occupations of lands and resources have not been adequately assessed. FRCN noted that they are a Treaty 5 First Nation with roots in Norway House and York Factory, and therefore may have different Aboriginal and Treaty rights than the Treaty 2 First Nations located within the Project’s Regional Assessment Area (RAA). For example, Game Hunting Areas 21 and 21A which surround FRCN are closed to all moose hunting. For FRCN members who have relied on moose for meat and cultural uses, the loss of habitat which may further delay the recovery of the moose population is an important potential cumulative impact. This potential impact may be different for other Indigenous groups that may have the opportunity to hunt moose in other areas.</p> <p>York Factory First Nation (YFFN) noted that the Proponent’s response to IAAC-R3-07 omitted York Factory First Nation, particularly in relation to the potential project impacts to the rights, well-being, and way of life of Indigenous groups. YFFN indicated that the Proponent’s assessment of common and unique issues does not consider the unique impacts to downstream areas like Split Lake, despite the Proponent’s projections that post-Project water levels on Split Lake will be more than 5 millimetres above those without the Project for as long as 527 days following operation of the channels. YFFN noted that this unique pathway would impact their access to country foods through changes to the health of aquatic and shoreline plants, including medicines and food plants that grow in this area.</p>	<ol style="list-style-type: none"> <li>a. Provide an individual assessment of impacts to rights for each Indigenous group engaged on the Project.</li> <li>b. Add an additional column in Table IAAC-R3-07-01 describing why each of the Indigenous groups listed within that row are those that will be impacted by that pathway.</li> <li>c. Consider the various comments from Indigenous groups regarding the distinctions in how their rights would be impacted, and describe unique impacts to certain Indigenous groups based on factors including, but not limited to, location, context of existing rights, preferred areas for practicing rights, impacts to species of particular importance to certain Indigenous groups. Provide an assessment of the anticipated severity of impacts to rights for each unique impact identified.</li> <li>d. Based on Table IAAC-R3-07-2, provide a discussion of impacts to rights and an assessment of the anticipated severity of impacts to rights for each pathway of effect, making any distinctions in the severity of impacts to certain Indigenous groups, where necessary.</li> <li>e. Review comments provided by Indigenous groups in response to Round 3 Information Request Responses and incorporate any new information and address any concerns raised into parts a through d.</li> </ol>

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				<p>The Interlake Reserves Tribal Council (IRTC), Pinaymootang First Nation (PFN), Sagkeeng Anicinabe First Nation (SAFN), and Sandy Bay Ojibway First Nation (SBOFN) noted that Aboriginal Rights pertain to all Indigenous Peoples regardless of treaty status (though they are group and site specific) while Treaty Rights exist in relation to specific treaties (of which there are three relevant to the Project) and indicated that conflating the two categories is to risk disregarding any potentially relevant differences or distinctions between the existing and asserted rights of the Indigenous groups involved. The IRTC, PFN, SAFN, and SBOFN indicated that the Proponent must provide a discussion of the distinctions, where they exist, between the Aboriginal and Treaty Rights of all Indigenous groups engaged on the Project to ensure that the rights of all engaged Indigenous groups are recognized and protected in the course of Project planning and operations.</p> <p>The Manitoba Metis Federation (MMF) asserted that Red River Métis will have their Aboriginal rights impacted by changes in water quality, water level, ability to hunt and trap within the project corridor, ability to collect/harvest plants/medicines for sustenance or cultural use. MMF noted that this Project is also expected to have synergistic effects as a result of its contributions to cumulative effects and the cumulative loss of lands for which Métis rights can be exercised.</p> <p>Examples provided above from FRCN, IRTC, MMF, PFN, SAFN, SBOFN, and YFFN clearly demonstrate that Indigenous groups have unique impacts to their rights that have not been discussed. It is important to better understand if there are other such distinctions in how rights may be impacted by the Project based on how Indigenous groups describe their rights and the impacts to them.</p> <p>In response to IAAC-R3-07, the Proponent summarizes the Rights Impact Assessments (RIAs) and Socio-economic and Well-being Studies (SEWBs) and provided Table IAAC-R3-07-2 that describes each pathway for an impact to right identified in these documents, and links to relevant sections of the EIS and information request responses where information has been provided to support the understanding of this pathway of effects. Further, the Proponent concludes that the information in the RIA reports provided additional detail on the nature and extent of Aboriginal and Treaty rights in relation to the Project, but does not identify any new pathways of effects that are not already assessed. Therefore, their conclusions remain unchanged. This response does not provide an understanding of the Proponent's analysis on impacts to rights and assessment of the severity of impacts to rights for each pathway identified. Infrastructure Canada noted that the response to IAAC-R3-07 did not further address impacts to rights or provide an assessment of impacts to rights of each Indigenous group.</p>	
IAAC-04-02	IAAC-R3-06 (b)	IAAC Interlake Reserves Tribal Council Pinaymootang First Nation	7.1.10 Indigenous Peoples 7.3.3 Indigenous Peoples	In response to IAAC-R3-06 b)iii), the Proponent acknowledged that the Lake St. Martin Outlet Channel (LSMOC) is located in a semi-remote area which individuals may be traversing. They indicate "Should an individual need to cross the LSMOC, the bridge at the Water Control Structure (WCS) would provide the only structure for safe passage from one side of the channel to the other. Crossing of the LSMOC at drop structures or any other uncontrolled location would not be recommended as this would present considerable safety risks and could result in	<ul style="list-style-type: none"> <li>a. Discuss the potential for additional crossing locations along the LSMOC to support Indigenous land users travel by foot and all-terrain vehicle (ATV). <ul style="list-style-type: none"> <li>a. Provide specific examples of Indigenous input or views and discuss how they have been considered.</li> </ul> </li> </ul>

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		Sagkeeng Anicinabe First Nation  Sandy Bay Ojibway First Nation	9. Monitoring and Follow up Programs	<p>serious injury or death." Furthermore, the Proponent noted that the WCS is located 0.6 km north of the inlet at LSM and 21.7 km south of the outlet at Sturgeon Bay.</p> <p>In response to IAAC-R3-06 b)vii), the Proponent noted that they investigated the option of installing pedestrian/ATV bridges; however, they would have high construction and operation costs and create operational and environmental concerns. No additional details are provided regarding the feasibility of such crossings, including what these environmental and operational concerns would entail or a sufficient understanding to conclude that the costs would be too high. The Proponent also reviewed options to add alternative crossings such as ford/low-level crossings, but noted that these would not be a viable options for the Lake Manitoba Outlet Channel (LMOC) as water depths are too great and such a crossing would have limited accessibility. No discussion is provided on the viability of these crossings for the LSMOC. The Proponent concluded that more information and further understanding of preferences of local resource users is required to determine the most appropriate course of action. The Agency requires this analysis to be completed, including any commitments to implementing additional methods of crossing the LSMOC in order to determine whether there would be adverse effects to access for the current use of lands and resources for traditional purposes.</p> <p>The IRTC, PFN, SAFN, and SBOFN indicated that given the lack of planned or proposed crossings, it is unclear how the Proponent expects Indigenous land users to navigate LSMOC structures without serious safety risks. Based on the current design, land users can only cross at a single point at one end of the over 20-km long channel, almost completely restricting access. The IRTC, PFN, SAFN, and SBOFN strongly recommended that the Proponent begin the assessment of potential crossing locations immediately based on available information (scientific and Indigenous knowledge [IK]). These Indigenous groups noted that they feel that the Proponent has sufficient information in hand to, at minimum, investigate and propose potential crossing sites at reasonable intervals along the proposed LSMOC.</p> <p>The Proponent acknowledges that Indigenous groups have advised that there are trails and travel routes in the Project area that are used to access traditional resource harvesting areas for which the Proponent does not have specific locations or information about. The Proponent committed to meeting with Indigenous groups to conduct mapping sessions to better understand how the Project will affect access to traditional harvesting areas and identify and map where existing trails may be intersected or interrupted by the Project. The proposed mapping sessions would provide an opportunity for Indigenous groups to identify their traditional trails or travelways and present an opportunity to explore additional mitigation or accommodation measures, if required. While the Agency acknowledges that this is an important step, given current input from Indigenous groups regarding the impassability of the channels, specifically the LSMOC, it is critical for additional means of crossing the channels be identified to mitigate adverse effects to access for current use.</p>	<ul style="list-style-type: none"> <li>b. Provide an assessment of the technical and economical feasibility of potential crossings, including their potential for environmental effects.</li> <li>c. Should additional crossing locations not be identified, reassess effects to access for current use.</li> </ul>
IAAC-04-03	IAAC-R3-06 (d)	IAAC	7.1.10 Indigenous Peoples	In response to IAAC-R3-06 d), the Proponent discusses additional protocols for pre-construction heritage investigations, construction compliance monitors, chance find protocols, and human remains and details further consultation work that will be conducted related to the	<ul style="list-style-type: none"> <li>a. Provide an updated HRPP that includes changes to procedures reflective of input from Indigenous groups and IK. Ensure to include</li> </ul>

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		<p>Interlake Reserves Tribal Council</p> <p>Pinaymootang First Nation</p> <p>Sagkeeng Anicinabe First Nation</p> <p>Sandy Bay Ojibway First Nation</p>	<p>7.3.3 Indigenous Peoples</p> <p>9. Monitoring and Follow up Programs</p>	<p>identification and mitigation of heritage resources. However, the Proponent did not update the Heritage Resources Protection Plan (HRPP) with this information.</p> <p>The IRTC, PFN, SAFN, and SBOFN indicated that the 2020 IRTC Knowledge and Use Study identified 393 cultural sites within the RAA, which should be included in the HRPP. These Indigenous groups noted that “The planned destruction, and excavation, of the undisturbed sites 5elp-004 and 5elp-006 (“the village sites”) is an unacceptable loss to [them]. These sites should have weighed heavily in the routing choices for the channels, as they are irreplaceable and deeply important. In the HRPP, the current mitigation for the destruction of these sites is complete excavation and removal of all heritage artifacts. [These Indigenous groups have] maintained throughout the Impact Assessment process that excavation is not a mitigation measure, as it causes a large amount of impact.” The IRTC, PFN, SAFN, and SBOFN noted that the Proponent must acknowledge the significance of these sites and recognize that some or all of them may be lost due to excavation. These Indigenous groups noted that the discretion of the Project archaeologist in deciding whether heritage resources are left in situ, but the lack of Indigenous input and transparency regarding artifact destinations is concerning.</p> <p>The Proponent indicated that in conjunction with the 10 recorded heritage sites identified during the HRIA, other additionally identified cultural, ceremonial and harvesting sites, whether archaeologically or culturally affiliated, will be addressed by the Proponent (potentially in conjunction with the Environmental Advisory Committee (EAC), if desired by Indigenous groups) on a site-by-site basis for mitigation strategies. Mitigation methods and construction monitoring will allow for research, recovery and analysis of the heritage resources that may assist in telling the story of how the Indigenous Peoples lived at those sites. The work would be conducted respectfully, following the legislative requirements of Manitoba’s <i>Historical Resources Act</i>, and may provide a meaningful learning opportunity. Based on the recent knowledge provided through Traditional Land and Resource Use studies and engagement with Indigenous groups, the Proponent identified additional locations that require archaeological investigations, such as the Lake St Martin Narrows and Snake Island and noted that these sites will undergo heritage surveys to identify potential heritage resources, but to also record and preserve heritage objects found.</p> <p>The IRTC, PFN, SAFN, and SBOFN indicated that any work for additional archaeological investigations needs to have Indigenous methods, input, and direction at the forefront. For example, they indicated that heritage resources need to be protected, and relocated if necessary, under the direction of Indigenous monitors, to be stored at locations chosen by Indigenous groups and the HRPP must be revised to include Indigenous Knowledge and concerns and mention having an Indigenous monitor onsite. The IRTC, PFN, SAFN, and SBOFN noted that if the Proponent proceeds with its excavation plan as a mitigation measure, it must provide an explanation on how impacts will be offset and also describe the standards of best practices that will be used and plan for involvement of Indigenous groups for the restoration of temporary project activities.</p>	<p>procedures for communication with Indigenous groups related to heritage resource activities.</p> <p>b. Describe processes for recruitment, training, and involvement of Indigenous groups in archeological work and any other activities related to heritage resources.</p> <p>i. Discuss whether the recommendation to develop an Indigenous-led monitoring program that would include deeper involvement of Indigenous groups in cultural heritage and archaeology work is a measure that the Proponent would consider implementing, and if so, how it would be implemented.</p> <p>c. Provide an analysis of effects to the 393 cultural sites identified by Indigenous groups. Discuss any overlap of these sites with those already identified within the HRPP. For those not described in the HRPP, discuss mitigations that would be implemented.</p> <p>d. For any temporary project activities where the location has yet to be determined, describe best practices that will be used for any potential effects to physical and cultural heritage and discuss Indigenous groups’ involvement in the determination of the location for these activities and any archaeological and or heritage work required.</p>

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				Indigenous groups continue to identify concerns related to the structure, function, participation, and accountability of the Proponent's Environmental Advisory Committee (EAC) as a means of ongoing engagement and involvement of Indigenous groups in monitoring. The IRTC, PFN, SAFN, and SBOFN indicated that the Proponent must commit to an Indigenous-led monitoring program and deeper involvement of Indigenous groups in cultural heritage and archaeology work to address concerns and allow for an equitable role for Indigenous groups in all aspects of cultural heritage work before, during, and after Project construction activities. See recommendations from the IRTC, PFN, SAFN, and SBOFN related to involvement of Indigenous groups in monitoring, updating of the HRPP including clear communication protocols, and identification of tangible and intangible cultural heritage sites.	
IAAC-04-04	IAAC-R3-06 IAAC-R3-07	Fisher River Cree Nation  IAAC  Interlake Reserves Tribal Council  Manitoba Metis Federation  Pinaymootang First Nation  Sagkeeng Anicinabe First Nation  Sandy Bay Ojibway First Nation	7.1.10 Indigenous Peoples  7.3.3 Indigenous Peoples  9. Monitoring and Follow up Programs	The IRTC, MMF, PFN, SAFN, and SBOFN continue to note the lack of meaningful incorporation of Indigenous Knowledge into the assessment, mitigations, and monitoring.  In particular, IAAC-R3-07 c) requested the Proponent indicate how all Indigenous input and knowledge collected during engagement processes has informed or influenced changes and revisions to Project documentation such as Environmental Management Plans (EMPs) and information request responses. In response to IAAC-R3-07 c), the Proponent summarized their engagement with Indigenous groups for the EMPs and lists the documents they have received from Indigenous groups. The Agency acknowledges that the response details where the Proponent has provided opportunities for Indigenous groups to provide input into the Project's documentation; however, the response does not describe how any of this input resulted in changes to the EMPs or IR responses.  IAAC-R3-07 d) requested the Proponent describe how Indigenous input and knowledge has been incorporated into mitigation and adaptive management measures, providing specific examples for each Indigenous group. In response to IAAC-R3-07 d), the Proponent provided specific examples of how Indigenous input resulted in some changes to Project design, mitigations, and monitoring; however, the examples are broad and the response does not provide examples for each Indigenous group.	a. Provide a table listing each Indigenous group with specific examples of IK or input that they provided and how it resulted in changes to the project assessment and/or project design, planning, mitigation measures, and monitoring.
IAAC-04-05	IAAC-R3-01 IAAC-R3-02	IAAC  DFO	7.1.5 Fish and fish Habitat  7.1.10 Indigenous Peoples  7.3.1 Fish and fish Habitat  7.3.3 Indigenous Peoples	The Environmental Impact Statement (EIS) Guidelines require the Proponent to identify any potential adverse effects to fish and fish habitat due to changes in water quality and sediment quality as a result of storing water in, and releasing water from one lake to another and from the channels. The EIS Guidelines also require the Proponent to assess changes to the environment on Indigenous groups' socio-economic conditions, including commercial fishing, recreational use and food security.  Based on the data on the effects on fish habitat provided in the responses to the Round 3 IRs and to date throughout the technical review; and based on expert advice from Fisheries and Oceans Canada, there is uncertainty related to the spatial extent of Harmful Alteration Disruption or Destruction (HADD) and associated offsetting for the purposes of the environmental assessment process in preparation for potential future <i>Fisheries Act</i>	a. Provide a fulsome conceptual-level strategy clearly describing options at an appropriate scale for compensatory (offsetting) areas, including estimated spatial extents (square metres), for HADD offsets required for the Project, including whether proposed locations consider advice or requests from Indigenous groups provided in consultation activities related to HADD offsetting to date.  i. In the plan, provide a table of potential HADD offset locations and spatial extent of offset provided.



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				<p>authorization processes. The Proponent has stated that they will work with DFO on fully clarifying scale of HADD and appropriate offsets as part of the <i>Fisheries Act</i> process. This will be completed to the satisfaction of DFO in order for a <i>Fisheries Act</i> Authorization to be issued. Potential offsets submitted to Fisheries and Oceans Canada to date are draft, do not encompass the full extent of the impacts or corresponding HADD offset required for the Project, and are still undergoing consultation with Indigenous groups.</p>	