



# MANITOBA METIS FEDERATION INC.

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**David Chartrand, LL.D. (Hon)**  
*President*

September 8, 2020

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

The Honourable Jonathan Wilkinson  
Minister of Environment and Climate Change  
House of Commons  
Ottawa, Ontario, J1A 0A6  
[Jonathan.Wilkinson@parl.gc.ca](mailto:Jonathan.Wilkinson@parl.gc.ca)

Barbara Pullishy  
Director, Prairie and Northern Region  
Impact Assessment Agency of Canada  
1145-9700 Jasper Avenue  
Edmonton, Alberta, T5J 4C3  
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Dear Minister Wilkinson and Ms. Pullishy:

**Re: CanWhite Sands Corporation Manitoba Environment Act Proposal – Designation of Project under Impact Assessment Act**

I am writing to you on behalf of the Manitoba Metis Federation (“MMF”), the democratically elected self-government representative of the Manitoba Metis Community (our “Community”), to outline concerns with respect to the Provincial Environment Act Proposal (EAP) filing for CanWhite Sands Corp. (CWS) Vivian Processing Facility (the “Project”). Specifically, the MMF is concerned about the potential impacts of CanWhite Sands Inc.’s activities on our Community’s constitutionally protected rights, claims, and interests as well as deeply concerned with the significant lack of consultation by the Province of Manitoba for the Metis Government in Manitoba and the concerns of our Community. The MMF’s position is that the Project should be designated under the *Impact Assessment Act of Canada 2019* (“IAAC 2019”).

The MMF supports the need for a designation and federal environmental review of the Project under *IAAC 2019*. This proposed CWS mineral extraction process is the first of its kind in North America. The Project, located near Vivian Manitoba, is in the MMF’s Southeast Region—within the traditional territory of the Manitoba Metis Community—and CWS is proposing to construct a silica sand processing facility that will extract and produce 1.36 million tonnes of processed silica sand per year. This processing facility is the first of two provincial licenses to be filed by CWS—the first of which proposes to process the silica sand through the extraction of approximately 7.7

million cubic metres of water annually through its wet plant operation. The second environmental license will be for the silica sand mine and silica extraction method – a process by which the MMF has received no information – which CWS considers proprietary information at this time. By allowing the project licensing to be split into two separate applications, Manitoba has provided the opportunity for the proponent to file an Environment Act Proposal on a sand processing facility and receive approval without any further information of the anticipated extraction process. The development of the entire Project has the potential to have profound and lasting impacts on the Manitoba Metis Community and s. 35 Metis rights yet there has been no consideration of these impacts of the Project. This is entirely unacceptable.

CWS has provided preliminary information to the MMF about the processing facility, however, neither the proponent nor the provincial Crown have meaningfully engaged or consulted the MMF as the government of the Manitoba Metis Community on the Project. Manitoba has not responded to our letter outlining our significant concerns about the impacts of the Project on our rights, our Metis citizens' health and well-being, and the cumulative and regional environmental effects on southern Manitoba. Citizens of the Manitoba Metis Community rely on these lands, waters, and resources to exercise their s. 35 Metis harvesting rights, to feed themselves and their families, and maintain their distinct Metis traditions and connection to our traditional territory. In short: it is a significant project that carries with it the potential for significant adverse impacts and neither Manitoba nor CWS have appropriately assessed, mitigated or accommodated the impacts to Metis rights.

It is the MMF's position that a federal impact assessment is critical for this Project given the clear potential for direct, indirect, and cumulative impacts on the constitutionally protected rights, claims, and interests of the Manitoba Metis Community. In addition, the MMF believes that a federal impact assessment is supported and necessary based upon consideration of the following matters, which we understand the Impact Assessment Agency of Canada (the "Agency") will take into account when making a decision on whether to designate a project for review under *IAAC. 2019*:<sup>1</sup>

Sec 16 (2)...

- (b) the possibility that the carrying out of the designated project may cause adverse effects within federal jurisdiction or adverse direct or incidental effects;
- (c) any adverse impact that the designated project may have on the rights of the Indigenous peoples of Canada recognized and affirmed by section 35 of the Constitution Act, 1982;
- (d) any comments received within the time period specified by the Agency from the public and from any jurisdiction or Indigenous group that is consulted under section 12;

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<sup>1</sup> Government of Canada, Designation of Physical Activity, *Impact Assessment Act, 2019*, September 2020, online: <https://laws-lois.justice.gc.ca/eng/acts/I-2.75/page-3.html#h-1160246>

The following submission provides our comments on why the Project should be a designated project under *IAAC 2019* and undergo a federal review. We provide a brief overview of our concerns about the Project and its impacts related to the matters identified above. Our comments are organized around the following four topics:

- i) There are potential impacts of the Project to the Manitoba Metis Community and our s. 35 Metis rights;
- ii) There are potential adverse environmental effects of the Project on areas of federal jurisdiction; and
- iii) Federal review is required to consider regional and cumulative effects of the Project that are not being considered/addressed in other regulatory/legislative processes.

As the MMF has not been fully, properly or meaningfully consulted or engaged by the provincial Crown or proponent regarding this Project—and despite our requests for a meaningful consultation process about the Project’s potential significant impacts on our s. 35 rights—our concerns are based on the information we have and what is publicly available. In addition, we have not had the time or capacity to do a robust review of the Project’s potential environmental impacts to matters such as air quality, groundwater resources, fish, fish habitat, or species of importance to the Manitoba Metis Community. As such, there may be further concerns identified through a robust consultation process with the MMF (which is clearly required and has not begun) than are identified below.

**i) There are potential impacts of the Project to the Manitoba Metis Community and our s. 35 Metis rights**

The Project’s use of the lands, waters, and resources raise significant concerns for impacts to the Manitoba Metis Community. These include, but are not limited to:

- the impacts of Project construction activities and anticipated mineral extraction operations on the environment that would impact the exercise of Metis s. 35 harvesting rights and engage our stewardship rights and obligations; and,
- the potential impacts of the Project on the health and well-being of MMF Citizens

This list is not exhaustive. Since we have had no information from Manitoba about the Project—and have also not been appropriately informed by the proponent about the mineral extraction activities—our concerns about these potential impacts is based on the limited available public information, which may be incomplete. It demonstrates however, that there is at the very least the potential for these impacts on the Manitoba Metis Community and our s. 35 rights.

As noted above, citizens and harvesters of the Manitoba Metis Community rely on the lands and waters of the Project area to exercise their s. 35 rights and to feed themselves and their families. As was detailed in the MMF’s review of Manitoba Hydro’s Manitoba Minnesota Transmission Project and the reports for other federally reviewed projects, our Community’s reliance on this

area for hunting, fishing, trapping, gathering and cultural purposes has been documented through several recent Traditional Knowledge and Land Use Studies. The Project is in an area in which the provincial Crown recognizes that the Manitoba Metis Community has s. 35 harvesting rights, with our Community having extension historical and contemporary linkages throughout this area.

The MMF has concerns about the impacts of the Project on the health and well-being of Metis Citizens in and around the Project area. Impacts on health and well-being from the project have not been considered or assessed for the Manitoba Metis Community in light of Metis specific use of the lands and waters surrounding the Project area. MMF citizens and harvesters have raised significant concerns to the MMF about the Project and its potential adverse impacts on their health including related to: use of and contamination to groundwater; presence of silica sand/increased dust or sand in the air and effects on respiratory health; and impacts on traditional activities and harvesting that negatively affects Metis food security. In addition, as further discussed below, the assessment of potential impacts of the Project currently does not include cumulative impacts of the Project such as potential discharge of potable water into the Brokenhead River and the Winnipeg Formation Aquifer.

The Manitoba Metis Community is highly mobile. Our Citizens, including harvesters, will travel far distances throughout our traditional territory to exercise their s. 35 rights. In particular, MMF Citizens from the Winnipeg Region, and other MMF Regions, will travel to the Southeast Region (where the Project is located) for the purposes of exercising their s. 35 rights.

**ii) There are potential adverse environmental effects of the Project on areas of federal jurisdiction**

MMF submits that there is the potential for significant adverse environmental impacts as included in IAAC 2012 such that a federal environmental assessment is required.

The MMF's concerns about health and socio-economic conditions, as well as current Metis use of lands and resources for traditional s. 35 harvesting purposes, is outlined above.

In addition, given the lack of information to date about the mineral extraction locations, the MMF also has significant concerns that there are potential and irreversible impacts to our Metis cultural heritage, historical and archaeological resources through this Project that engage our stewardship rights and responsibilities and would support a review of the Project by the Agency.

There may also be impacts related to the environment that should be considered but are currently not included by the proponent in the scope of the Project. In particular, the MMF notes concerns around groundwater and surrounding lakes and rivers which could have impacts on fish, fish habitat, and aquatic species. We understand that these concerns have been raised by others in relation to this Project.

To the extent that the Agency is tracking concerns about adverse environmental effects raised by the public specific to this project, the MMF also makes the point that concerns raised by the Manitoba Metis Community—as Manitobans in general—must also be considered. As the democratically-elected representative of the Manitoba Metis Community—which includes over

120,000 Metis people across Manitoba—the MMF has heard from our Citizens, including harvesters, about the unaddressed questions and concerns that they have about the Project and its potential adverse environmental effects. These significant concerns should be considered by the Agency as being raised by both Metis citizens with s.35 rights and also by the public since the two are not mutually exclusive.

**iii) Federal review is required to consider Regional cumulative effects that are not being considered or addressed in other regulatory or legislative processes**

While the Project is subject to a provincial environmental review, the MMF has serious concerns regarding the ability of that review to adequately consider and address the potential impacts of the Project on the s. 35 rights of the Manitoba Metis Community. The MMF also has concerns regarding the gaps in the proponent's Environment Act Proposal related to significant regional and cumulative impacts. These omissions in CWS's Proposal – taken in concert with the splitting of the Project into two separate licensing processes - will result in corresponding gaps in the ability of the provincial review to address cumulative regional impacts of the Project across and beyond Manitoba.

First, as is demonstrated in the attached letter sent from the MMF to the provincial department of Conservation and Climate, we have had no engagement with Manitoba about the Project's potential impacts on our s. 35 rights, claims, and interests. Despite the Project being in an area where the Province has recognized s. 35 Metis harvesting rights, Manitoba has not even notified the MMF regarding the Environment Act Proposal for the Project. The MMF has had to learn about this Project through the media and the concerns raised by our Citizens. The MMF has raised the need to begin a meaningful process of consultation about the impacts of the Project on s. 35 Metis rights and has received no response from the Provincial Crown. To date, we have had no respectful, government-to-government engagement with Manitoba about the Project and have serious doubts about whether the provincial Crown will undertake meaningful consultation with the MMF in these circumstances.

Second, the MMF has significant concerns regarding the exclusion of a mineral extraction license from the EAP and the associated impacts on waterbodies, including groundwater resources, fish, fish habitat and aquatic species from the Project's environment. Given the lack of information to date on the location of these sites, the significance of groundwater and downstream water resources, regional and cumulative effects of the Project are currently scoped out of the existing provincial environmental review and will not be considered without federal involvement.

## **CONCLUSION**

As outlined above, the MMF has significant concerns about the potential impacts of the Project on the constitutionally-protected rights, claims, and interests as well as the health and well-being of citizens of the Metis Nation's Manitoba Metis Community. These concerns are related to the immediate Project area in which MMF Citizens and harvesters have and continue to exercise recognized s. 35 harvesting rights, as well as the potential for this Project to increase cumulative environmental effects and impacts on s. 35 Metis rights throughout the region.

The MMF's position is that the Project should be a designated project under *IAAC 2019* and be subject to a federal review by the Agency. As outlined above, it is our view that this is necessary and required in order to ensure that the Project receives a robust environmental review and that adverse impacts to s. 35 Metis rights and the environment are considered and sufficiently addressed. I am respectfully requesting that you consider designating the project under *IAAC 2019* and I look forward to hearing your response and working collaboratively with the Agency on this Project. Please do not hesitate to have your staff contact me at their earliest opportunity via telephone at 204-586-8474 ext 263 or via email to [marci.riel@mmf.mb.ca](mailto:marci.riel@mmf.mb.ca) to schedule a meeting to further discuss any matters raised in this letter.

Meeqwetch,

*\*Original Signed By\**

Marci Riel  
Senior Director  
Energy, Infrastructure and Resource Management  
Manitoba Metis Federation

Cc: The Honourable Bernadette Jordan  
Minister of Fisheries, Oceans, and the Canadian Coast Guard

The Honourable Carolyn Bennett  
Minister of Crown-Indigenous Relations

MMF President's Office  
Denise Thomas, Vice President, MMF Southeast Region  
Mark Parenteau, MMF Minister Responsible for Environment and Mining