

January 17, 2014

Mr. Mark Stonyk
Manitoba Justice
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Dear Mr Stonyk;

**RE: Bipole III Transmission Line Development Project –
Manitoba Environment Act Licence No. 3055 - Appeal to Cabinet**

This letter is in response to the letter received December 2, 2013 from Mr. Mark Stonyk from Manitoba Justice, regarding submission of appeals to Environment Act Licence No. 3055 (the “Licence”). The Licence for the construction, operation and maintenance of the Manitoba Hydro Bipole III Transmission Line development project (“Bipole III”) was issued by the Minister of Conservation and Water Stewardship (the “Minister”) on August 14, 2013. The December letters and appeal book indicate that Manitoba Justice has determined that an appeal to cabinet is required for the Bipole III licence under the Environment Act.

We observe that a licence issued on the 2011 EIS contents, without taking into account the late filings and all the corrections, gaps and deficiencies in the EIS materials identified through 11 months of CEC proceedings and hearings, may well in fact be a licence that needs review.

The contents of this appeal to cabinet letter are not exhaustive or complete, rather they represent what Manitoba Wildlands is able to provide at this time.

This Process – Appeal to Cabinet – Observations:

Neither piece of correspondence actually set out the schedule for the appeal to cabinet. Based on our experience of the Wuskwatim licences appeal to cabinet we would recommend:

- All appeals under the Act should be known, and those appeal letters be public and filed in the public registry. This practice has stopped.
- Any organization, community or individual who is informed that an appeal to cabinet is underway, and that they are appealing based on their earlier appeal of the licence (in this case in September 2013) should be entitled to adequate time to respond to the second round of the appeal. It appears from the correspondence that government departments and the proponent will be provided with what ever time they require, while those who filed appeals of the licence prior to the September deadline will not be provided equal or adequate time.
- Anyone involved in this appeal to cabinet based on their initial appeal should be provided with resources to participate, given that everyone else involved has as many resources, time, and staffing as they need.

- We assume that responses from all those who filed appeals will be provided in the second round information.
- While these practices under the Environment Act have largely deteriorated, the ability to view what others have written regarding EIS reviews, appeals filed, etc should be part of all stages of review under the Environment Act.
- Manitoba Justice should be required to provide the reasons for the appeal to cabinet in such a way that assists those who are expected to participate in the appeal to cabinet.
- Any member of cabinet who wishes to review the full materials for the appeal to cabinet of an Environment licence should have access to the full materials.
- That Manitoba Justice make clear immediately the status of all of the appeals to the Bipole III licence under the Environment Act, given they are not public, and given that not all those who appealed the licence will be able to respond and participate in the appeal to cabinet.
- That Manitoba Justice make procedures under the Environment Act clear immediately - as to the resolution of all the public appeals of this licence
- That members of cabinet who had anything to do with decisions about the Bipole III project, proposal, EIS, licensing, reviews, hearing etc be removed from the cabinet room for this hearing. Information confirming which members of cabinet will not be part of the review should be provided to those filing appeal to cabinet documents.
- That Justice Manitoba immediately make recommendations to the Law Reform Commission of Manitoba regarding the appeal to cabinet procedures, how to improve them etc.
- That Manitoba Justice provide reasons for the refusal for in person appeal hearings with cabinet immediately, given there are recent instances of appeals to cabinet under other Acts in Manitoba, where counsel spoke in the cabinet room.
- Anyone from Manitoba Justice presenting the Bipole III appeal to cabinet materials to cabinet should be familiar with the Bipole III EIS, and proceedings, and have a basic understanding of environment assessments, and licensing.
- Manitoba Justice must ensure that all licensing materials are available to the public throughout all phases of a project. It is urgent that the public registry for the Environment Act be complete, accessible, and relevant.
- Manitoba Justice should provide an analysis to cabinet, based on the responses from those who are appealing, *from their comments over time*, about whether the Scoping Document was fulfilled by the proponent.
- Manitoba Justice materials for an appeal to government *must list all* EIS and other materials filed both under the Environment Act reviews, and in relation to the CEC proceedings and hearings. *Or* Manitoba Justice and Manitoba Conservation need to state clearly that exhibits, evidence, presentations during CEC hearings are not relevant in an appeal to cabinet.

The Bipole III Project is the first transmission line of significant length planned for construction in Manitoba since the North South Project in the 1990's. It is the first direct current project in the province since Bipole I and II were constructed in the late 1960s and early 1970's. Given the importance of this project and it's impact on Manitoba's land and waters, Manitoba Wildlands has been involved with review of the Bipole III project since 2009. During that time, Manitoba Wildlands has been actively engaged in the public review of the Bipole III project, submitting review comments at each stage, and appeals to government on environmental, social and community impacts. We also participated, as a non-funded participant, in the 2012-2013 Bipole III Clean Environment Commission (CEC) Hearings.

Manitoba Wildlands also participated in all phases of review for the Wuskwatim projects between 2002 and 2008. Recently we were funded participants in the Keeyask Generation Station CEC hearings. Our activity to do with Keeyask started in 2009 and continues to date.

The Comments and Recommendations in this letter are intended in the public interest, and seek to assist Manitoba Justice and the Manitoba Cabinet to conduct a thorough and comprehensive analysis of the Bipole III EIS, various filings, and CEC materials. Another important element to consider while wading through the dense amount of Bipole III materials, is that there is currently a Manitoba Law Reform Commission review of the Environment Act with a public launch of the discussion paper on January 29, 2014. The results of the review may improve the current regulatory system with respect to Manitoba Hydro projects, and other classes of development under the Environment Act. Manitoba Conservation will also be conducting a public review of the Act soon.

Manitoba Wildlands has been communicating concerns regarding the BP3 project since 2009, and we observe that many of our recommendations submitted through public reviews and appeals have not been addressed.

We would also observe that while Manitoba Conservation Licensing Branch has **formal guidelines for proponents** for certain kinds of projects but there appear to be no minimum or consistent guidelines provided to Manitoba Hydro when they indicate they are going to file an proposal under the Environment Act. This certainly was apparent in the Bipole III reviews, and proceedings. It could be observed that this lack is likely an ingredient in the overall deficiency of the Bipole III EIS filings – as identified by the CEC in its report. We are long overdue for minimum standards so that Manitoba Hydro filings are accessible, consistent, perhaps peer reviewed. (The utility consistently says every other party should have peer reviewed reports.) relevant to all parties.

Manitoba Wildlands expects that this letter will be placed in the Public Registry File for the Bipole III licence and posted online. The appeal to cabinet should not be a secret process.

We list areas of concern we have been raised through the course of the Bipole III Scoping Document review, EIS review process and CEC proceedings/hearings which we feel warrant consideration by Cabinet in its deliberations.

Manitoba Wildlands & Bipole III 2009 – Present

Manitoba Wildlands has been an active participant in the Bipole III review process which began in December 2009. Our involvement in the Bipole III review is purely out of public interest, with the aim of improving the environmental review process, instituting pertinent standards and regulations and ensuring that the review process is transparent and fair for all parties, and benefits all Manitobans. We also have a commitment to environmental protection and healthy Manitoba ecosystems. To get a full chronological description the Bipole III project CEC hearings, please review **our attachment** entitled “Bipole III Clean Environment Commission Chart: Events, Decisions and Documents”. All comments and review letters submitted by Manitoba Wildlands

referenced in this section, are also added as **attachments to this appeal to cabinet for Bipole III letter**.

In December 2009, Manitoba Hydro submitted an Environment Act Proposal Form and the Draft Scoping Document for the Bipole III project to Manitoba Conservation. The notice of the Environment Act Proposal and Draft Scoping Document was posted January 2, 2010. There is no information as to how the contents of the Scoping Document draft was arrived at, or what direction or standards the Licensing Branch provided to the proponent.

The original Draft Scoping Document comments deadline was February 10, 2010, which was extended to March 31, 2010. **Note:** If Manitoba Hydro aims to build a 1.4B \$ project then Manitoba Conservation must have clear standards with respect to review periods. Class 3 projects or Class 2 projects where there will be CEC hearings need to have at least a 60 public review period, with 90 days being more fair and reasonable, that do not include holidays.

In response Manitoba Wildlands conducted a review of the Draft Scoping Document and submitted concerns and recommendations to the Manitoba Conservation - Environmental Assessment and Licensing Branch on March 31, 2010. The Final Scoping Document was then released in June 2010 and posted on the Public Registry. Shortly after, on June 29, 2010, Manitoba Hydro selected the preferred corridor for Bipole III.

There is no information or known basis for the decisions as to the content of the Final Scoping Document.

On December 2, 2011, the Bipole III Environmental Impact Statement (EIS) was released for public review and hosted on the Manitoba Hydro website. On that same day, Manitoba Conservation announced that CEC hearings would be held for the Bipole III project. In the case of Bipole III there were immediate problems with the EIS materials themselves, during distribution. The EIS review period included all the seasonal holidays in December and January, and misleading statements by government staff about the review period contradicted the Licensing Branch procedures and dates. Then the review period was extended. In the case of Bipole III EIS there were immediate problems with the materials themselves, during distribution, where they had to be re-issued to affected communities.

On February 15, 2012 the CEC issued its updated procedural documents for the Bipole III CEC hearings, and two days later, on February 17, 2012 announced the participant funding application deadline. Manitoba Wildlands decided to participate in the CEC hearings as an unfunded participant.

On March 16, 2012, Manitoba Wildlands participated in the public review of the EIS, sending comments and recommendations to the Manitoba Conservation - Environmental Assessment and Licensing Branch, regarding deficiencies identified in the Bipole III EIS materials.

On May 10, 2012 the CEC held the first Pre-hearing conference, encouraging participants to submit EIS deficiencies to the CEC by May 31, 2012. Manitoba Wildlands was in attendance and participated to its capacity in the CEC hearings until they were completed March 13, 2013. **Note:**

A three and one half month adjournment was necessary during the hearings due to changes in the project itself assumed by the proponent. An EIS was needed for the route changes, and was filed in January 2013. Manitoba Wildlands did not file comments for this material. **Note:** Few specifics as to the requirements for the EIS for the route changes were provided, and much of the material in the EIS filed failed to answer the assessment questions relevant to the route changes.

Bipole III Licence and Accompanying Minister's Letter: Observations:

- 1) Not completely clear what the licence is based on; the EIS has been found incomplete during the CEC hearings and from TAC and public comments. Furthermore the EIS does not include all the technical reports or late filings by Hydro. So Manitoba Justice will need to consider the validity of basing the licence on the EIS, early materials only.
- 2) Deficiencies in the EIS identified during the CEC hearings appears to be relevant in arriving at the Bipole III licence content.
- 3) Does not identify how affected communities will be involved in the Environmental Protection program, despite CEC hearings content and recommendation.
- 4) First Nation environmental concerns are only addressed in relation to the Environmental Protection Plan, which essentially puts First Nation comments aside unless they specifically fit into the EPP.
- 5) Socio-economic or subsistence economy is discussed in the CEC report(Rec 57) but ignored in the licence *and* in the terms of reference for the NFAT PUB hearings
- 6) The licence needs to be more thorough in actions that the proponent needs to take to mitigate environmental impacts that are evident following monitoring, and over the whole life of the project.
- 7) Despite significant presentations, evidence, and comments from First Nations the licence is not thorough enough regarding traditional medicinal plants
- 8) Annual reports during the construction phase of BP3 are only to be submitted for the first five years of operation, which is not sufficient., as these must be annual and public.
- 9) Species at Risk are only recognized for birds... what about other animals?
- 10) Caribou only monitored for 25 years of project. It was identified that the EIS did not properly include National Caribou Protection strategy, despite claims made in summer 2012 report. Provincial or federal protected species need to be monitored for the life of the project.
- 11) ATK information needs to be used at the outset of conducting and designing the field studies for the technical reports from which the EIS is based.
- 12) All Hydro materials need to be hosted on the public registry, and stay available.
- 13) Manitoba Justice and the Law Reform Commission need to consider how to incorporate more CEC recs into the final licensing decision, both regulatory and non licensing instructions to the proponent.
- 14) Cabinet would benefit form an in person CEC presentation on their Bipole III findings in order to answer questions and provide feedback for their decision.

Compliance with Scoping Document (in Lieu of EIS Guidelines)

Manitoba Wildlands submitted a letter to Minister Bill Blaikie (Minister of Conservation and Climate Change) and Ms. Tracy Braun (Director, Environmental Assessment and Licensing Branch) in March 2010, regarding the Bipole III Scoping Document. In that letter we addressed the necessity of having a pertinent, clear, environmental assessment and sustainable

development principles based Scoping Document as a platform for guidance on the Environmental Impact Statement.

The areas of concern we raised include;

- Study areas, project areas, and then corridor areas for the project need to be well defined with a range of issues addressed through thoughtful selection of the Bipole III study area;
- Timely notification of the public for all phase of the project;
- Timely posting of all Bipole III materials on the Public Registry, which includes all information presented during and acquired from community and municipal meetings and open houses as these occurred;
- The Bipole III EIS to include a review of past practices and issues regarding access to information, with a resulting plan and practices outline and lists Manitoba government entities involved in the EIS review process. It is unclear how much of this occurred.
- Transmission system environmental assessment and licensing standards and regulations within Manitoba need to be developed;
- Crown land designations and outstanding protected areas needed to be in place prior to selecting the final route for Bipole III;
- **Note: See review attached letter and selected attachments.**

Despite our thorough review of the Bipole III Scoping Document, and making recommendations for the purpose of enhancing the EIS, many of our recommendations were not addressed in the final EIS.

Example 1: The Bipole III EIS, which seemed to be posted on the Public Registry, is a link to the Manitoba Hydro website which made the EIS available. However, if one tries to access the Bipole III EIS through the Public Registry during this appeals process, the Manitoba Hydro website indicates that the link is no longer functional.

Where is the EIS ? Is it secret ? **Note:** Manitoba Justice provided a Manitoba Hydro link to the EIS for this appeal to cabinet *that does not provide the EIS*. The *full EIS is not available* through the Manitoba government website, and *the EIS is not available to the public*. Did Manitoba Hydro take these materials down because the CEC indicates they are deficient ? When did Manitoba Hydro take these EIS materials off their website ? Why ?

Example 2: The Bipole III study area(s) are poorly defined, lack scientific justification and do not address the fundamental reasons for establishing a study area: 'An area that is representative of the ecosystems, animals, cultural and social elements impacted by a project, that allows for a realistic analysis of said parameters without introducing false negative or positive results'.

Manitoba Hydro provided the Manitoba Wildlands offices with a corridor area set of data and shapes files that showed an 4.5 km wide impact zone for the Bipole III project. Overall in the EIS materials, and in presentations to the CEC hearings, there are several definitions and widths.

See attached document that provides our review of the various definitions, sizes, and names for the Bipole III study areas, or corridors areas as provided in the EIS by the proponent.

Example 3: Guidelines for actions to build transmission lines – planning, design, EA, licensing, construction and operations – should be available through

Manitoba Conservation, Environmental Assessment and Licensing Branch. These should be applied to all stages of reviews and decision making under The Environment Act and any other Act triggered by a new transmission line. Manitoba Conservation also needs to make available to the public its policies and procedures standards for a scoping document under the Environment Act. Such Guidelines can be a requirement for any future transmission project, and they can be a requirement in the reference from the minister to the CEC for their proceedings and hearings regarding the transmission project. **See attached** letter, and examples of guidelines and standards.

Example 4: Currently guidelines, standards or regulations for transmission systems in Manitoba either do not exist or are not publicly available. Licences for transmission systems, and the record as to environmental assessment are the main public information, if available. Other areas of Canada, such as Ontario and British Columbia, publicly post guidelines and regulations regarding major transmission line construction. For example: The Ontario Energy Board regularly updates and posts their *Transmission System Code*.

Example 5: From our 2010 Scoping Document review letter:

“The Bipole III EIS will need to identify all crown land designations in or partly in the selected corridor. This includes any crown land where a regulation, agreement, or order in council is in place. We assume the choice among three possible corridors/project areas will be made in advance of contents for the EIS being finalized and provided. As a result, the public policy, ecological, regulatory and community or stakeholder issues, and impacts with respect to crown land designations will need to be identified. As the west side natural regions of Manitoba continues to lack fulfillment of protected areas commitments, despite many areas of special interest designed by Manitoba Conservation being available for those decisions, the EIS for Bipole III will need to address protected areas commitments, options, while avoiding impacts to any opportunity outstanding for establishment of new protected areas. It would be beneficial to decision making and the boreal forest regions for Manitoba Hydro to indicate which areas of special interest it supports for protected status. The utility could also nominate or identify alternative sites, and indicate which areas of special interest it supports.

“Manitoba Wildlands recommends that Manitoba Conservation and Manitoba Hydro work together for decisions for new protected areas in the regions impacted by Bipole III, with establishment being in advance of any construction, ideally this year.”

“In addition, at any point in time Manitoba Conservation has plans for several new wildlife management areas in the province, and currently as many as 40 sites are under review for ecological reserve status, with as many as 20 rivers being reviewed for Canadian Heritage River status. Therefore the EIS will need to be informed about these potential decisions. The EIS also needed to include how Manitoba Hydro will avoid increasing risk of habitat impacts near or inside any existing protected areas – federal or provincial, which are impacted by the selected corridor. The EIS will need to define buffers and explain the standards applied in each instance.”

Note: Our utility has had many opportunities over the last 20 years to support and assist in decisions for protected areas in Manitoba, and there are two small examples of their assistance. The pattern though is one of blocking both protected areas establishment and lands planning by

First Nation communities. The Bipole III project was a 'golden opportunity' for our utility to assist in fulfillment of public policy, with the resulting benefits to the utility's reputation, and to Manitoba's natural world.

It is evident that public comments and recommendations are not being acknowledged at the outset to help inform and enhance the EIS process. Recommendations from Manitoba Wildlands in our March, 2010 letter re the Scoping Document were not put into effect, and remain as outstanding concerns for Cabinet to address. The same is true of our March 2012 EIS review comments.

Recommendations from the CEC

Manitoba Wildlands supports the contents of the CEC report regarding the Bipole III project. We also support the approach taken by the current minister in issuing a letter to Manitoba Hydro instructing that the non licensing recommendations of the CEC also have to be fulfilled by our utility. We are concerned though about the capacity of our licensing branch staff to adequately review and respond to the various requirements of the licence that must be fulfilled before there is any construction on the Bipole III project.

We would have wished to see more content in the CEC report regarding ecosystems, the species and species habitat impacted by the project, and overall the standards needed for monitoring, for all phases of the project, over the life of the project.

We would have also wished to see more content from the CEC as to fulfillment of:

- The Scoping Document requirements
- The Manitoba sustainable development principles and guidelines
- Aboriginal rights, and the Crown's obligations with respect to this project.

The Minister took a very important step in his letter to the utility. He effectively started the process of what used to be in place for Class 3 developments (and those for which CEC hearings are held.) under the Act; proponents had specific requirements in EIS guidelines in terms of upholding public policy that pertains to their project. Their EIS materials had to respond to a wide range of non licensing policies and practices.

Aboriginal Traditional Knowledge

The Bipole III Licence makes reference to Aboriginal Traditional Knowledge (ATK) as it relates to environmental monitoring etc. Cabinet will need to consider the record in the CEC hearings as much of the EIS content, and claims by the proponent regarding ATK were refuted. Outright contradictions in this regard are evident in the presentations by the proponent, and cross examination. The expert who took over the delayed project work in this regard acknowledged under oath that the ATK information was not sufficient.

Note: First Nation and Aboriginal consultations by the Crown, and engagement by Manitoba Hydro regarding Bipole III are not finished, and were incomplete. Confusion was the pattern as Manitoba Hydro persisted in saying they were conducting consultations. **Manitoba Justice is responsible** to tell cabinet how many of the 26 affected First Nations were actually provided capacity for a technical traditional knowledge review of Bipole III sections in their territory by

Manitoba Hydro, and how many of the affected communities completed a community consultation project – and which of those filed appeals of the licence. **Note:** It is unclear whether our utility or our government staff decided to start scoping out affected First Nations in relation to the Bipole III project, but it happened. Manitoba Justice may wish to explain this problem to cabinet, and identify which Nations were scoped out and how many of them filed appeals of the licence.

Species in Manitoba – EIS

Text and tables in the EIS regarding species are frequently misleading with conflicting and varying information. Some tables demonstrating the conservation status of species under numerous Acts (COSEWIC, SARA, MESA) are incomplete or display false information. **Eg:** Table 6A-2 from Appendix 6A leaves out the listing of two species under the federal and provincial species acts, and by COSEWIC.

We assume there are various other errors.

Other Examples:

Section 6.2.5.4 Chapter 6, page 6 – 59:

Text indicates that : “203 species of conservation concern are known to occur in the Project Study Area. These include 125 species ranked by Manitoba Conservation Data Centre as very rare to rare”. This section starts with a description of species listed by the Manitoba Endangered Species Act and by COSEWIC. The text keeps switching back and forth between what are four systems of listing and ranking species. Tables are incomplete or have false information.

Table 6.2.8: Protected Plant Species in the Project Study Area states that there are only 7 vascular plant species found in the BP3 project region, and protected either federally or provincially.

Appendix 6A Table 6A- 2 indicates that there are 14 vascular plant species that have federal or provincial protection in the project study area. This table does not take into account all protected species. See above.

Note: The CEC hearings established there are many questions about how Manitoba Hydro surveyed species location, presence, not located, and absence. Section 6.2.7.4 indicates that 584 individuals from 8 species at risk were observed, and goes on to report on only 394 of these. There is no information about the other 190 species at risk observed. The EIS also claims that no ferruginous hawks, burrowing owls, short eared owls, whip poor wills, loggerhead shrikes or Sprague’s pipits were recorded. There is no information as to methodology for the surveys or field work, and an assumption that if these others were not observed they are not in the huge project area, or less huge project local study area.

Note: The Bipole III licence only references the bird species at risk. The other 39 federally or/and provincially listed and protected species in the Project Study Area are disregarded. Why?

Note: The number of species with S1, S2, or S3 Manitoba government ranking that would be affected by the Bipole III project is much higher. They are species of conservation concern, see Manitoba Hydro headers and sections in its EIS.

S1 = very rare
S2 = rare
S3 = uncommon

These materials must be understandable, see our **Attached document** regarding all the regions, areas, zones, and corridor definitions and land quantums used in the Bipole III EIS. Manitoba Hydro needs to provide verifiable, and complete species information. EIS or scoping document standards must require all listed species in the project area to be assessed, reported on, potentially monitored etc.

Manitoba Wildlands recommends that Manitoba Hydro include all species at risk within Manitoba as identified under provincial and federal Acts; Manitoba Endangered Species Act (MESA), Species at Risk Act (SARA) and Committee on the Status of Endangered Wildlife in Canada (COSEWIC), within the Environmental Protection Program, in addition to the Valued Ecological Components (VECs).

The size of habitat used by these species, and the location of any aspect of Bipole III infrastructure in relation to these habitat ranges should be the basis for environmental assessment. This approach was not taken in the EIS. See our attached analysis of the various project areas, and corridor areas. These were used variously in the EIS in relation to species studies.

Most Bipole III EIS habitat and species studies were literature reviews, data reviews, and desk analysis rather than field work. Contrary to the approach which our utility took when the first field work for Bipole III was conducted twenty years ago, in conjunction with the first plan for Conawapa, there is very little actual field data used in this EIS. **Note:** This varying application of a standard is an example of a standard or requirement that should be in place when our utility files a proposal for new transmission systems.

Manitoba Crown Lands and Protected Areas

Recommendations in the Manitoba Wildlands March 31, 2010 Scoping Document letter to Manitoba Conservation resulted in attempts by the proponent to file an EIS that used Manitoba government policy regarding protected areas. But the proponent used an inaccurate definition of a protected area. The definition has been the same in both Manitoba's regulatory system and public policy since 1990.

Process & Transparency

These observations are intended to point out changes needed that would improve the quality of the reviews under our Environment Act.

- EIS information was held back by Hydro until after the EIS was released and reviewed, and then entered as late filings, through CEC undertaking, from IRs or supplemental information. This results in the full EIS not being reviewed under the Environment Act, and there being no Environment Act record of these late materials. It effectively moves non-reviewed EIS materials into CEC hearings.

- By only providing the minimum amount of information for public review, Manitoba Hydro is wasting taxpayers' time and money and acting as the regulator by deciding what to provide and defining its own thorough and timely review of the EIS materials.
- Technical reports for Bipole III were largely not provided, and not filed. They were available, though released late, for the Keeyask Generation Station project reviews. Who decides this? What is our regulatory standard? How much more Bipole III information was held back?

EIS, Data and Maps

GIS and map data standards and methodologies are missing from the EIS, and the maps. There is no methodology regarding meta data, no standard regarding variances for error when combining sets of GIS data, or combining shape files. (Data may be of different ages, or handled differently in various data bases etc.)

In particular the actual sources for data on the EIS maps are not clear, as several private companies are listed, but no information as to which public data sources were used are provided.

As serious, is the lack of accessibility for these maps. As many as 150 maps were provided inside one pdf. The time and resource use for each reviewer, each affected community, any Manitoban reading the EIS, to actually be able to get at the map or maps they are interested in is a barrier put in place by our utility. Many of those affected by Bipole III do not have the resources to access the maps given how they are provided. The public registry locations are not resourced to assist with access to the EIS Maps.

Also there are no all in, all inclusive maps in the EIS. This means that everything is portrayed in the Manitoba Hydro defined 4 regions for the project. Any social, infrastructure or environmental component that crosses more than one region was not available together. **Note:** The Wuskwatim Transmission Project maps were more accessible.

Transmission Standards and Regulations

As identified within the Manitoba Wildlands March 31, 2010 Scoping Document review comments we indicated that Manitoba lacks transmission standards and regulations. Minimum requirements to file a transmission proposal, both regarding both content, and format, are needed.

Manitoba Wildlands recommends that guidelines for actions to build transmission lines - planning, design, EA, licensing, construction and operations - should be available through Manitoba Conservation, Environmental Assessment and Licensing Branch. These should be applied to all stages of reviews and decision making under The Environment Act and any other Act triggered by a new transmission line. Manitoba Conservation also needs to make available to the public its policies and procedures standards for a transmission system scoping document under the Environment Act.

Independent Science and Peer Review

Manitoba Hydro's use of data in its effects assessments of its own projects runs into problems in terms of being verifiable, and in terms of conclusions in its EIS materials.

The best practice standard – especially when little field work or inventory is conducted – identifies ‘presence’ as a positive. Not locating an environmental element only verifies the environmental element was not identified. Verifying absence takes more than not locating data, or an environmental element in the field. This best practice is a consistent tool used by experts across our continent. Why does Manitoba Hydro avoid best practice? A reminder that the CEC found the EIS materials deficient is needed here in our letter. **Note:** Sources of data, sharing public utility data with the Manitoba government and the public are steps long overdue. Otherwise it is a delusion to think that sufficient data about species, habitat and environmental elements exists to support the conclusions in this EIS.

Manitoba Hydro expects everyone involved in reviews, and CEC hearings to provide **peer reviewed proof** of their comments, presentations etc. It is time for Manitoba Hydro to proceed with publishing peer reviewed materials between projects about its standards, methods, and conclusions in assessments. **Note:** In transmission matters Manitoba Hydro routinely reports to utilities in the US regarding a range of matters to do with transmission systems and projects, alternative energy, energy resource loads, etc. Our utility fulfills US FERC requirements, while making presentations, providing reports etc to US agencies and utilities. All of these materials should be available to Manitobans, and should be part of project reviews and hearings in Manitoba.

Manitoba public funds support all stages of Manitoba Hydro project proposals, reviews, assessments etc. This includes substantial time by government staff also. It is time for independent experts to be part of these reviews as early in the planning and assessment process as possible. Manitobans and the utility would benefit, with a real likelihood that our lands and waters, and our economy would also benefit.

Precautionary Principle

Manitoba Wildlands has been asking whether Manitoba Hydro projects are precautionary for over a decade. We asked this sort of question in the Bipole III hearings. **We have attached here** a set of definitions which will help Manitoba Justice in its review and preparation for the next stage of this appeal process.

The precautionary principle is missing in the EIS materials, late filings, and perhaps hearings presentations. (As a non funded participant we were not able to attend all presentations.)

Externalities – Bringing into the Assessment

Statistics Canada published a thematic report in fall 2013 regarding the valuing of all ecosystem services and functions in decision making in Canada. Ecosystem services are an externalities in Manitoba Hydro self assessments. The lands and waters the Bipole III project will use are not quantified, not described in qualitative terms with respect to what is lost and its value. Nor are the ecosystem services and functions that will be affected clearly identified. This could mean that all mitigation assumptions in the EIS are going to be found to be insufficient also. **See our attached** externalities definitions and sources paper.

Life Cycle Assessments (LCA)

Manitoba Hydro has now taken the same approach in three projects, including Bipole III, by providing a life cycle assessment that provides limited information, and does not fulfill the international standard for these assessments. The actual LCA reports are either not available or difficult to obtain. These LCAs need to be much more thorough as they are about the climate change and emissions effects from a project. There is no carbon inventory or budget for Bipole III. There is no actual monitoring and reporting about carbon disturbed or lost and actual emissions intended for Bipole III. **Note:** Manitoba Wildlands brought into the Keeyask Generation Station hearings experts who provided a primer on how LCA should be conducted for a generation project. The report and presentation are publicly available. The approach can be modified for a project, while the principles and international standards still apply.

Sustainable Development

Manitoba's sustainable development principles and guidelines hold us to a high standard of review, research, and consideration of the best possible approach to any project under the Environment Act. We have attached here two documents from Dennis Woodford, Peng, regarding what could be taken as omissions or gaps in the planning and design of Bipole III. They are provided to underline the concern we have about the ability of our utility to investigate and use the best methods, materials, and design approaches for the most important transmission project in Manitoba in 40 years. **See attachments.**

Recommendations

Manitoba Wildlands recommendations in our 2010, 2012, and 2013 comments and review letters stand, are still relevant. We add the contents of this letter in response to the appeal to cabinet of the Bipole III licence.

Attachments Provided:

We have attached to this letter a set of document which we intend as a part of our appeal to cabinet materials. Certain of these have been referenced within the letter here. All are relevant because several aspects of the regulatory and review process have not been adequate or fulfilled to date for the Bipole III licence. These attachments support our recommendations and observations in this letter, and in our three previous review and comments letters to the government about this project. We assume also that our three review comments letters from the Bipole III reviews under the Environment Act are also part of our submission in the appeal to cabinet. We expect the regulatory agency, and the proponent, and other government departments should they be involved in the appeal to cabinet to respond to these materials also.

Yours truly,

'ORIGINAL SIGNED BY'

Gaile Whelan Enns
Director, Manitoba Wildlands