

DELIVERED

November 24, 2006

File No. 40498/1

Mr. Aaron Berg
Manitoba Justice
Room 730 Civil Legal Services
Woodsworth Building
405 Broadway Avenue
Winnipeg, MB R3C 3L6

A copy of a true copy heretofore
admitted this 24th day of Nov 2006

Aaron Berg
Solicitors for the *Exec. Ct.*

(served and binding
materials)

Dear Mr. Berg:

Re: Appeal to Cabinet (Wuskwatim Generation Project)
File No. EN0100(27)

The following is the submission of Trapline 18 regarding the appeal to Cabinet on the Wuskwatim Generation Project. Leave to appeal was granted September 29, 2006. We are legal counsel for Trapline 18 and Donald McIvor, Norman McIvor and Greg McIvor jointly and severally.

A. INTRODUCTION

Beginning November 4, 2006 Trapline 18 has placed its focus on how to substantiate scientifically eye witness evidence from the air and on the ground showing a linkage between the Churchill River Diversion, water elevation increases and increased water levels causing flooding in Trapline 18 and beyond. Evidence of elevations is not readily available in up-to-date ways on maps since Hydro development began in the 1970s. Trapline 18 has managed within less than three weeks to gather enough scientific evidence to raise serious concerns about the relied upon opinion of Manitoba Hydro in the form of the interoffice memorandum dated July 4, 2003 (Tab 6). This new information also casts serious doubt on whether or not the Clean Environment Commission and all participants in the process had sufficient information to come to the conclusions and recommendations they did. The additional information growing out of this effort so far (it is a work in progress) include the following:

- (a) Foster opinion (Tab 20); and
- (b) Graphic simulations and report (Tab 21).

The time allotted to hear this matter is extremely limited. The process is essentially political and secret. The intention of this submission is to make this Government and the Premier and each individual Cabinet Minister accountable for whatever decision is made by Cabinet with respect to this appeal. We are satisfied that Cabinet has the legal jurisdiction and the

power and authority to make the correct decision and to implement it in a timely and effective manner. The issues we raise below are real, serious and far reaching. They affect present and future living things in all the affected areas, including human beings and their social, economic and cultural wellbeing and sustainability.

B. ISSUES

The issues we put before you are as follows:

1. Did Manitoba Hydro mislead the Clean Environment Commission and the Minister, the people of Manitoba and the Government by providing out of date and inadequate facts and less than independent surveyor, engineer and hydrological data and opinions during the Clean Environment Commission ("CEC") process with the intention that they be relied on as if there were no better information?
2. Was the CEC process fair to Trapline 18 so as to enable natural justice to be done in an adversarial forum wherein the monopoly power and dominance of Manitoba Hydro was pitted against individuals representing Trapline 18 who were denied adequate resources to contest effectively Manitoba Hydro assertions of fact and expert opinion?
3. Did CEC fail to consider and/or give adequate weight to relevant traditional knowledge and lay person eyewitness evidence presented by Trapline 18?
4. Did the CEC deny the opportunity to Trapline 18 to present new relevant and important evidence which was not available at the time of the hearing including an aerial survey (Tabs 13, 14, 15 and 18) demonstrating that water flows north to south from Nostigi and Churchill River Diversion ("CRD") Territory consistently when Nostigi releases water several times a year into the CRD system?
5. Was the opinion in the form of an interoffice memorandum from Manitoba Hydro, Hydro Development Engineer G.N. Cook, P. Eng. to B.J. Osiowy, P. Eng. Manager of Hydro Power Planning Department dated July 4, 2003 (Tab 6) an adequate, independent opinion meeting the standards of expert opinion evidence and should it have been relied on or given any weight by the CEC to override the traditional knowledge and eyewitness evidence tendered by Trapline 18?
6. Was the question addressed by said interoffice memorandum (Tab 6) the real comprehensive question and theory advanced by Trapline 18? Or, is it simply an unfair and inaccurate reframing of the serious question raised by the evidence of Trapline 18, so as to convert it into a simplistic theory of a possible underground river connection not advanced by the Trapline 18 in order to make it look ridiculous and contrary to elementary laws of physics?
7. Why did CEC not treat seriously, and demand the production of an independent hydrological opinion, about the plausibility of CRD waters moving north to south and into Trapline 18 and beyond, when it is plain and obvious to the trappers of Trapline

- 18 that higher water levels in the Trapline and flooding and adverse impacts occur normally coincident with releases of water from Nostigi several times a year?
8. Why did CEC place the onus on Trapline 18 (with its limited resources and inability to afford an independent hydrologist) and not require full disclosure from Manitoba Hydro of facts about elevations in the area between Nostigi and Trapline 18 when it was apparent that water does flow north and south from the Wuskwatim lake area (downstream from Nostigi) into the Trapline area and indeed perhaps to Setting Lake and the entire Grass River system?
 9. Why are the limited spot elevations relied on in the interoffice memorandum (Tab 6) simply resourced from topographic mapping for the area (National Topographic Mapping Series Maps, 1:50,000 scale - Tab 4) dating back to 1971, prior to development of CRD and prior to technology like GPS and Google Earth has provided for years which is readily available and affordable for Manitoba Hydro?
 10. Is the Manitoba Hydro opinion which relies on those spot elevations which are outdated and cannot possibly represent the reality of the area in question since 1971, deserving of any weight whatsoever by the Clean Environment Commission 35 years later in circumstances, when Manitoba Hydro has within its exclusive power and control and privacy, data about elevation and flooding and environmental degradation which has not been shared with Trapline 18 or the public in general or CEC?
 11. Given that the CEC was purportedly delegated the responsibility by the Canadian Environmental Assessment Agency to amongst other things conduct the kind of consultation required by Section 35 of the Constitution Act, 1982 respecting Trapline 18 owned by registered Indians has the CEC met the minimum standards required by law of such a mandatory consultation process?
- C. SOME ALLEGED FACTS TO CONSIDER AND APPLY
1. Trapline 18 was denied full, or even adequate, disclosure of all relevant information necessary to hold Manitoba Hydro accountable for the interoffice memorandum opinion (Tab 6) and Manitoba Hydro failed to disclose elevation data, and environmental degradation information, flooding information and other relevant evidence necessary to determine the plausibility of water flows from a CRD source into Trapline 18 and beyond;
 2. Trapline 18 was not adequately funded to participate effectively in an adversarial process involving Manitoba Hydro monopoly power and control over professional engineers employed by Hydro and beyond because the funding provided by CEC was grossly inadequate and non-disclosure by Manitoba Hydro was patent and supported by CEC;
 3. The impression conveyed by comments from the Chair of the CEC gave the impression to Trapline 18 that the Trapline 18 presentation had been prejudged and was not taken seriously;

4. The onus to refute the Hydro interoffice memorandum (Tab 6) was imposed on Trapline 18 by CEC. CEC did not require an independent hydrological expert to comment on the interoffice memorandum and did not even ask Hydro to provide a more comprehensive opinion based on up to date information as opposed to very limited data dating back to 1971;
5. Trapline 18 was not only discouraged, but denied, from continuing with cross-examination of the proponent's witnesses at the March 23, 2004 hearings in Thompson (Transcript is Tab 10). Trapline 18 was denied the opportunity to cross-examine any witnesses whatsoever in Winnipeg who were supportive of Manitoba Hydro in their application to the CEC. The fact is that CEC simply failed and neglected to allow this opportunity by not scheduling for it. Yet Greg Mclvor and his brother, Donald Mclvor, were cross-examined by proponents supportive of Manitoba Hydro. The loss of opportunity to cross-examine was commented on in Winnipeg on May 26, 2004 at the Sheraton Hotel and is recorded in verbatim transcript volume 27 (Tab 11), page no. 6525, lines 14 through 25, where it states: "So with that, we want to thank you. And unfortunately, I think because of the scheduling and a lot of problems that the CEC has experienced over the last little while, you know, with the participants, you know, we haven't had an opportunity to do any cross-examination on the Environmental Impact Statement that was provided by Manitoba Hydro. You know, we certainly look forward to doing that at some point. But you know, I guess it's 27 days already and I understand there's closing statements that are being provided to participants, so we'll look forward to that as well. And thank you very much." (Underlining for emphasis only).
6. On the same date in the same transcript at page 6461 recording the testimony of Greg Mclvor about the north south flows of water from CRD into the Trapline 18 evidencing the desire of Mr. Mclvor to have the Hydro video screened so that Mr. Mclvor could comment on it, the Chairman said at page 6462 of said transcript in response to this request "Well, you show it, I'll sleep." Because CEC was reluctantly exposed to this video, patently without an open mind and heart at least by the Chair, and because of the other indications of lack of respect by CEC for traditional knowledge and eyewitness evidence, Trapline 18 funded out of their own pockets an aerial survey of the area in question and prepared audio videos and a transcribed commentary (Tabs 13, 14, 15 and 18) after the CEC hearings closed for the purposes of a re-hearing or an appeal in light of all of the above. Further, the statement of the Chair of the CEC in the same transcript at page 6468 in relation to the Hydro video that the Chairman expressed no desire to watch states in lines 21 through 25 (The Chairman): "You're showing it." (Mr. Greg Mclvor): "And we're just showing it because from what I understand, it forms part of your evidence regarding Trapline 18." (The Chairman): "No, it doesn't." Page 6469 Mr. Mayer confirmed he hadn't seen it either and didn't know whether it had been filed as an exhibit or not. The significance of this disrespect and lack of serious, or any, consideration of the Manitoba Hydro video is that the Manitoba Hydro video described in an aerial site visit report on May 14, 2003 (Tab 5), was done at a time of extremely lower water levels and drought conditions across Manitoba and Western Canada and not

coincident with any releases from Nostigi. This aerial survey of Hydro became, along with the 1971 maps (Tab 4), the relied upon data basis for the interoffice memorandum dated July 4, 2003 (Tab 6) referred to above.

7. Trapline 18 was denied the opportunity to be heard before the CEC on serious matters and has gone to exceptional time, trouble and expense to refute the Hydro aerial reconnaissance. The aerial reconnaissance evident in the audio video done by Trapline 18 was the result of flyovers on July 26, 2005 (Tab 13) and September 30, 2005 (Tab 14). Neither of these dates were coincident with Nostigi releases just as the Manitoba Hydro visual was not coincident with a Nostigi release. The range of time normally for releases is between the end of March and the end of May and later in the year between mid-October and end of November. There were no releases in Spring of 2003 because of the drought in May of 2003. The aerial video evidence of Trapline 18 shows clearly waters flowing north and south and high water conditions and a landscape comprised of a chaotic mixture of treed and opened areas, bogs, ponds, streams, creeks, lakes and rivers with no obvious separate drainage basins. This is consistent with the evidence of the Mclvors to the effect that the water regime in the vicinity of Fergusson Creek and the Trapline area changed significantly following the commencement of operation by Nostigi Control Station.

D. ADDITIONAL EVIDENCE TO CONSIDER

1. We enclose the entire audio video aerial reconnaissance package and transcript done by the Mclvor family for review (Tabs 13, 14, 15 and 18). A review of the first five minutes of the first enclosure in the package namely, DVD film December 5, 2005 (Tab 16) will be instructive. This review will show that although Manitoba Hydro defined the Fergusson Creek watershed at 26 km south (Fergusson Creek Report - July 4, 2003, also enclosed at Tab 6 and titled Manitoba Hydro Interoffice Memorandum) of Wuskwatim Lake as can be seen in the enclosed CEAA video footage, the Fergusson Creek watershed is fed by water approximately 11 km from Wuskwatim Lake and 15 km from Fergusson Creek and Trapline 18. In addition, the visual evidence indicates that Fergusson Creek and Trapline 18 watershed consists of water flows from Burntwood River on the west, Three Point Lake on the north and Wuskwatim Lake/Burntwood River on the east.
2. Cabinet and each of its members are encouraged to ask themselves, based on the deficient opinion and inadequate data disclosed by Manitoba Hydro, whether CEC should be reconvened to consider all the evidence enclosed in this submission under "H. ENCLOSURES" herein.
3. Ministerial Statements, December 15, 2000, concerning Northern Flood Agreements made in the Manitoba Legislature on behalf of this Government by the Honourable Eric Robinson (Minister of Aboriginal and Northern Affairs) (Tab 1). The Minister stated amongst other things:

"As Minister of Aboriginal and Northern Affairs, I arise before the House today to address one of the most serious and pressing problems facing our province. - - - as the members of this House know, the socio-economic conditions of Aboriginal peoples in Manitoba are unacceptable. While we cannot immediately reverse the effects of almost a century of neglectful and at time abusive policies, our Government is committed to building new partnerships that will lead to improvements in the lives of Aboriginal communities and Aboriginal people. - - - We intend to move forward immediately in the following ways. First, for the first time in the history of this House, the Government of Manitoba recognizes that the Northern Flood Agreement is a modern day treaty and expresses its commitment to honour and properly implement the terms of the Northern Flood Agreement as recommended by the commissioners of the Aboriginal Justice Inquiry in 1991."

Registered Trapline 18 as a significant part of the Northern Affairs Community of Wabowden became a beneficiary of the Northern Flood Agreement when that Northern Affairs community signed on to the Northern Flood Agreement in 1992. The same standard of law and morality in relation to First Nations communities has since then been required for the Northern Affairs community and its citizens.

4. Finally, to demonstrate that some things never change, and to encourage and inspire the Premier and Cabinet to take a more proactive, environmentally and Aboriginally responsible and sensitive approach to prevent a reoccurrence on what has been suffered over the last 30 years or so, as a result of Manitoba Hydro developments, we enclose the entire affidavit of Casper Booy, sworn August 11, 2003 (Tab 19) and filed before the Clean Environment Commission. Your attention is directed in particular to the resignation letter of Professor R.W. Newberry, Ph.D., P. Eng., dated November 22, 1971, Exhibit "N" to the Affidavit, and the statement by Professor Cass Booy, Chairman of the Manitoba Water Commission, January 21, 1972, Exhibit "O" to said Affidavit and, in particular, his guidance to the Premier and Cabinet of the day as follows:

"It takes only a simple directive from the Premier or from the responsible minister to make all necessary information and expert opinion available to the Commission or to the public, as the case may be. It is, therefore, my considered opinion that the Commission should not rely on its legal powers but on the power of reasonable argument, backed by scrupulous fairness and impartiality, whenever a conflict arises."

E. ARGUMENT

1. All of the materials that we invite Ministers of the Cabinet to review, should be reviewed for the purposes of determining whether, in their several and collective

opinion, CEC was patently wrong in settling with the limited, out-of-date and obviously inadequate information put before them about the critical issues affecting Trapline 18. Further, they should be reviewed for the purpose of demonstrating how disrespectful and unfair the process was to Trapline 18 and its owners and representatives.

2. The big question raised by the above, for all Traplines and fishers and cottage owners and other businesses dependent for their society and livelihoods and traditional cultural enjoyment and identity in the areas affected by north south water flows from the CRD, is whether the Wuskwatim project will make worse what is already an obvious (disputed by Manitoba Hydro on poorly timed and inadequate aerial survey and interoffice memorandum based on that survey and outdated maps) in effect, "expropriation without compensation", of a massive area of land including Trapline 18 and its potential conversion in incremental evolving ways into another, less apparent, reservoir. The impact of said increased water levels as a result of Wuskwatim project may very well result in rendering Trapline 18 incapable of meeting trapping quotas necessary to sustain registration. The consequences of the last 30 years or so since development of CRD have brought Trapline 18 precariously close to that situation. The estimated lost income over the last 30 years has been calculated to be in the order of \$2.55 million so far. The total destruction of any capacity to earn an income would magnify this figure. Trapline 18 further has incurred well over \$100,000 in expense in excess of the miniscule \$20,000 provided by CEC to participate in many months of hearings and to fund the aerial survey and legal expenses. In addition to lost income and costs of participating in the process, damages respecting buildings and equipment over the adverse impact period of CRD on the Trapline 18 are in the order of \$250,000.00. All of the claims for damages respecting the CRD diversion impact on Trapline 18 are the subject matter of a claim under the Northern Flood Agreement filed earlier this year. The research and development of this claim has cost the Trapline 18 owner in time and out-of-pocket expenses over \$425,000.00. The need for lawyers and legal advice has increased with the Cabinet appeal and the need to go to arbitration under the Northern Flood Agreement to achieve a resolution of that claim.
3. Another, more far reaching question, in light of the deficiencies of the CEC process illustrated above and the patently deficient disclosure and updating of information and sharing of it, except in self-serving limited ways by Manitoba Hydro, is the questionable credibility of the evidence presented by Manitoba Hydro to the Clean Environment Commission in the form of the interoffice memorandum (Tab 6) and the Manitoba Hydro aerial survey (Tab 5) as compared to what could have been provided and should have been demanded by CEC in order to have any semblance of comfort that there is an acknowledged accountability for the damages inflicted over the last 30 years. The nature of the evidence tendered by Manitoba Hydro in relation to Trapline 18 so far is to deny responsibility based on the quality of information provided in the interoffice memorandum (Tab 6) and the aerial survey (Tab 5) and to put individual citizens like the McIvors to the daunting task of proving Hydro facts and experts to be wrong. It is respectfully submitted that this is a reverse kind of onus and that the onus should be on Manitoba Hydro to prove on the balance of probabilities that CRD

did not contribute to adverse effects on Trapline 18 in the past, and will not do so in future to an even greater extent with the Wuskwatim project and incrementally with subsequent projects that might further impact on Trapline 18.

4. It is submitted that CEC erred by not requiring Manitoba Hydro to be forthright and transparent and disclose all relevant facts and opinions, and studies about elevations and changes to vegetation, and the real high and low levels of water in the CRD system and affected lands in their vicinity such as Trapline 18 as opposed to averages.
5. Further, monitoring practices and their validity depend solely on the integrity of Manitoba Hydro and are not subjected to effective independent monitoring and it is submitted such data should not have been relied on without independent validation with respect to actual elevation levels (high and low) as opposed to averaged elevations which give a distorted picture of highest levels for the purpose of assessing adverse impact effects from such high levels.

F. RELIEF SOUGHT

The relief sought pursuant to this appeal is the following:

1. A simple directive from the Premier or from the responsible Minister to make all necessary information and expert opinion available to the CEC and to the public respecting the impact of Hydro developments on Trapline 18 to date;
2. Another directive from the Premier or from the responsible Minister to make all necessary information and expert opinion available to the CEC and to the public about whether or not, and to what extent, the Wuskwatim project will make worse a movement of water north to south from the CRD to Trapline 18 and beyond;
3. Another directive from the Premier or from the responsible Minister to provide all updated information and expert opinion which is helpful for Trapline 18 and the general public to understand whether or not and to what extent CRD waters increased water levels in Trapline 18 and beyond, including an explanation as to how, and why, this happens and whether or not it could be prevented;
4. The Premier and Cabinet should direct the Minister responsible to reconvene the Clean Environment Commission hearings to consider the information directed to be produced by Manitoba Hydro described above;
5. The Premier and Cabinet should direct responsible Minister to order the CEC to conduct a fair and impartial hearing and allow representatives of Trapline 18 full rights of cross-examination and reasonable and fair opportunity to review and examine all of the Hydro documentation directed to be produced above;

6. The Premier and Cabinet should instruct the responsible Minister to order that the CEC panel hearing the case shall consist of panel members other than the Chair who was Gerard Lecuyer and panel member Robert Mayer; and
7. The Premier and Cabinet shall direct the responsible Minister to do all things necessary to ensure that Trapline 18 is reimbursed its expenses, of time and out-of-pocket, respecting participating in the CEC proceedings to date including the costs of the aerial survey and, in addition, the Premier and Cabinet shall direct the responsible Minister to direct the CEC to provide funding to Trapline 18 in the amount of \$500,000.00 to enable Trapline 18 to conduct effective participation in the resumed hearing on condition that this funding is only used for paying for the time of one representative from the Registered Trapline. Said \$500,000.00 would be all inclusive for representation at the hearings in an instructing capacity of Trapline 18 by Greg McIvor, fees and expenses of witnesses, and engagement and expenses of experts, administrative costs and travel costs and legal representation costs.
8. The Premier and Cabinet should direct the Minister responsible, or Manitoba Hydro, to fund immediately the study described in the last paragraph of the Petr Cizek report (Tab 21).

G. CONCLUSION

1. It is now the turn of this Premier and this Cabinet to step up and do the right thing, beginning with Trapline 18, and then with every other similarly affected organization that in future participates with the vigor and determination and intelligence of the McIvor family on behalf of Registered Trapline 18.
2. As politicians, you may ask if there is a way of negotiating a solution to this situation. The answer of Registered Trapline 18 and the McIvor family is yes, but only if what Manitoba Hydro offers is respectful of the past, present and future damage to be done to our client and either provides fair compensation for expropriation without compensation. To the extent that such compensation is inadequate to deal with lost future income, meaningful and secure jobs for all those dependant for their society, livelihood and cultural identity and fulfillment in working the Trapline, every effort should be made to find them jobs as consultants or as employees of Manitoba Hydro. With their vast knowledge and experience and northern residences, substantial benefits might result by their being established in meaningful and suitable alternative careers to replace the trapping careers made less viable by Hydro development in the past and inevitably non-viable by virtue of the Hydro development at Wuskwatim and increasingly thereafter when Hydro developments beyond that affect water levels in the Trapline 18 area. Any such negotiation would have to be time limited and intense and not result in any delay in a reconvening of the hearing of the matter. The date for CEC to reconvene should be the deadline for a negotiated settlement.
3. Even if this matter is settled, the Premier and Cabinet must be made accountable should they fail to direct Hydro to disclose to the CEC, and the general public, the

kinds of data and expert opinion described in this appeal submission. Registered Trapline 18 and the Mclvor family are well aware of the damage done to them and are prepared to settle that. They are not prepared to withdraw this submission and further, are not prepared to agree to any confidentiality agreement which would constrain Trapline 18 and its family members from sharing with the world at large the deficiencies in process and information which jeopardize the future of so many Manitobans impacted by the Manitoba Hydro developments, directly and indirectly, without commensurate benefits from the development. Registered Trapline 18 and the Mclvor family are fearless advocates for a transparent, participatory, proactive and fair way to consider Hydro development proposals and make sure those proposals address the facts and independent expert opinions and resolve all legitimate claims equitably and up to the same kind of standards that would be generally acceptable in Southern Manitoba. Would a manufacturing plant, prime farming operation or financial institution impacted by flooding in Southern Manitoba be treated differently than a Trapline in Northern Manitoba?

4. Premier and Cabinet speak of themselves as the pro-Hydro development Government. The NDP Governments of the past and are more responsible for Hydro developments and the way that they were done than any other Government throughout the history of the Province of Manitoba. Will the Premier and Cabinet commit that they will do the right thing with respect to those impacted by Hydro developments today? Will the Premier and Cabinet commit to fair, full and good faith disclosure by Manitoba Hydro respecting CEC processes? Will the Premier and Cabinet commit to ensure adequate funding for interveners who have much to offer the process? Such funding should be seen as, and spent as, an investment in a higher quality process of license approval in the public interest. Independent reliable evidence from appropriate experts, not subject to the power and influence of Hydro, is critical to the quality of process. Claimants must be enabled to be effective adversaries as against Manitoba Hydro in order for a higher quality process. In time, Manitoba Hydro will be induced by this improved process to be more forthright, transparent and accountable proactively. Will the Premier and Cabinet commit to do the right thing with respect to those impacted by Hydro developments in the past, by demanding a higher standard from Manitoba Hydro by directing them to do what is described in this submission?

H. ENCLOSURES

1. Ministerial Statements - December 15, 2000
2. Registered Trapline Holders - Trapline 18
Date: March 22, 2004
Source: Manitoba Clean Environment Commission
Exhibit # MH/NCN - 1042
Wuskwatim Generation and Transmission Line

3. Trapline 18 - Application for Participant Assistance Program (PAP) - Wuskwatim Generation and Transmission Projects
Date: May 22, 2003
Source: Greg Mclvor
4. Topographical Maps produced by the Surveys and Mapping Branch, Department of Energy, Mines and Resources, Ottawa, 1977. Information current as of 1971. Three maps are enclosed. One for Wuskwatim Lake, Manitoba, Scale 1:50,000; one for Tullibee Lake, Manitoba, Scale 1:50,000; and one for Pistol Lake, Manitoba, Scale 1:50,000. It is these maps that Manitoba Hydro cites as authorities for the elevations relied on for Manitoba Hydro interoffice opinion, item number 6 below.
5. VHS Video - Ferguson Creek Hydrological Investigation, Waboden RTL - 18
Date: May 14, 2003
Source: Manitoba Hydro
6. Manitoba Hydro Interoffice Memorandum - Wuskwatim Project - Public Consultation Question from Mr. G. Mclvor, Engineering Review of Possible Underground River Connection Between the Churchill River Diversion Near Wuskwatim Lake and the Fergusson Creek Watershed
Date: July 4, 2003
Source: Manitoba Hydro
7. Transcript of Manitoba Clean Environment Commission Hearings on Wuskwatim Generation and Transmission Project - Motions brief hearing
Date: January 23, 2004
Source: Manitoba Clean Environment Commission
8. Transcript of Manitoba Clean Environment Commission Hearings on Wuskwatim Generation and Transmission Project - Greg Mclvor's NFAAT Cross Examination
Date: March 10, 2004
Source: Manitoba Clean Environment Commission
9. Transcript of Manitoba Clean Environment Commission Hearings on Wuskwatim Generation and Transmission Project - Greg Mclvor's NFAAT Cross Examination
Date: March 15, 2004
Source: Manitoba Clean Environment Commission
10. Transcript of Manitoba Clean Environment Commission Hearings on Wuskwatim Generation and Transmission Project - Cross-Examination of NCN and Hydro witnesses in Thompson, Manitoba
Date: March 23, 2004
11. Transcript of Manitoba Clean Environment Commission Hearings on Wuskwatim Generation and Transmission Project - Greg Mclvor presentation to CEC
Date: May 26, 2004
Source: Manitoba Clean Environment Commission

12. Transcript of Manitoba Clean Environment Commission Hearings on Wuskwatim Generation and Transmission Project - Closing Statement of Trapline 18
Date: June 9, 2004
Source: Manitoba Clean Environment Commission
13. DVD - Helicopter Footage, Wuskwatim Lake to Trapline 18, Ferguson Creek
Date: July 26, 2005
Source: Greg McIvor
14. DVD - Video Reconnaissance, left side of plane ride from Thompson to Wuskwatim Lake to Three Point Lake and Burntwood River to Trapline 18 and back to Wuskwatim Lake
Date: September 30, 2005
Source: Greg McIvor
15. DVD - Video Reconnaissance, right side of plane ride from Thompson to Wuskwatim Lake to Three Point Lake and Burntwood River to Trapline 18 and back to Wuskwatim Lake
Date: September 30, 2005
Source: Greg McIvor
16. DVD - Trapline 18, Response to the Wuskwatim Generation Project - Conducted under the Canadian Environmental Assessment Act
Date: December 5, 2005
Source: Greg McIvor
17. Legal Submission of Trapline 18: Submission in Respect of the CEAA Comprehensive Study Report for Wuskwatim Hydroelectric Generation Project
Date: December 9, 2005
Source: Kate Kempton, Lawyer
Olthius Kleer Townshend
229 College Street, Suite 312
Toronto, ON M5T 1R5
18. Transcript of DVD (Reid Reporting Services) - Trapline 18, Response to the Wuskwatim Generation Project - Conducted under the Canadian Environmental Assessment Act
Date: December 21, 2005
Source: Greg McIvor
19. Affidavit of Casper Booy, sworn August 11, 2003 and filed before the Clean Environment Commission
20. Opinion and résumé of Bob Foster dated November 22, 2006
21. Graphic simulations and report of the impact of Nostigi development and releases of water into the Burntwood River and beyond. The graphic simulations are:

- (a) A pre-Churchill River diversion graphic simulation superimposed on a satellite image dated September 2, 1973
- (b) Post-CRD graphic simulation imposed on satellite image June 12, 1992
- (c) Graphic simulation of land lost by virtue of the impacts illustrated in (a) and (b) above. The Foster report and these graphic simulations will have some more lay person kinds of explanation validated by our experts Foster and Cizek in the additional evidence section of our appeal submissions

22. Curriculum Vitae of Petr Cizek.

All of which is respectfully submitted on behalf of Registered Trapline 18, Don McIvor, Norman McIvor and Greg McIvor.

Yours truly,

PITBLADO LLP

per:

David G. Newman, Q.C.
DGN/ep

Encls.