

Manitoba Wildlands Appeal Letter – BiPole III

September 13, 2013

Minister Gord MacKintosh
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Dear Minister Mackintosh,

Re: Appeal Environmental Licence No. 3055 for Construction, Operation and Maintenance of Bipole III Project (Public Registry File #5433.00)

This letter is in response to the August 14, 2013 issuance of a licence under the Environment Act for the construction, operation and maintenance of the Bipole III Transmission Project. Please consider this letter as an official appeal of Licence No. 3055. We expect this letter to be placed in the Public Registry File for the Bipole III Transmission Project (PR File #5433.00). Manitoba Wildlands respectfully requests a timely response to our comments below; we look forward to receiving a response from yourself as to action based on this appeal.

We encourage you, Minister, and director, to resume making sure that all appeals on this licence are placed in the public registry file. This was the practice under the Act for about 20 years. Appeals under the Act should not be secret, and must be handled and decided in a reasonable period of time.

Manitoba Wildlands participated in the stages of review, proceedings and hearings regarding Bipole III over the last four years. We are basing some elements in this appeal on the public record of our review comments, and concerns about this project. Those elements included in this appeal are mostly *not* addressed in the EIS, hearings, and licence issued. Where we are updating our comments in this appeal letter we have used *italics*.

It should be noted that every participant in the CEC hearings for the Bipole III project recommended to the CEC that it *not* recommend a licence for the project. While the unanimous recommendation of the participants was bypassed we have a licence that is clearer and stricter than previous transmission licences. And based on the CEC report, we have a precedent letter accompanying the licence which stipulates that non regulatory recommendations also must be acted on by Manitoba Hydro. In this situation it is not surprising to hear a public interest advocate wish that the CEC report included more recommendations !

Manitoba Wildlands' appeal of Licence No. 3055 for the construction, operation and maintenance of the Bipole III Transmission Project is based on the following:

(*Italics* appear where we are providing current comments in relation to text from 2010, 2012, or 2013 Manitoba Wildlands written or spoken comments. All of these products are available on the Manitoba Wildlands website, in a listing on the home page.)

Manitoba Wildlands 2012 Memo to CEC and Hearing Participants

(List of Concerns and Deficiencies)-

- (First Nations and treaty rights) The EIS seems to think of Consultation in terms s. 35 only. There needs to be an understanding that Treaty rights are also impacted. Bi Pole III will cross treaty areas # 1, 2, 3, 4 - each of these treaties varies and need to be examined individually. *Manitoba Hydro appears to be lacking knowledge about these four treaty areas affected by Bipole III.. The fact is failure by the proponent to fully take into account the specifics of each treaty may have caused a variety of problems during the stages of reviews, proceedings, filings and hearings.*

- (NFAAT) The EIS also needs to break down the risk of failure after Bi Pole III is constructed. In other words if the risk with Bi Pole I & II is presently a probability of failure of 1 in every 17 years, what will be the probability of a triple failure after Bi Pole III is constructed? Also the specifics of a Bi Pole I & 2 failures in relation to Bi Pole III should be provided.

- (Project Study Area) The Project Study Area is huge. By using such a large study area the proponent, Manitoba Hydro (MH), is able to scope some effects as non-significant because they only effect a small portion of the study area.

Self assessment by a public utility must include a more transparent and credible approach than is evident in the EIS.

- (Project Study Area) The large Project Study Area appears to be selected on the basis that initially MH was considering three routes. However, because the far west option was not selected the study area is lop-sided with the preferred route touching the eastern edges of the study area, while also being a considerable distance from the western edges of the study area. *This issue was not corrected during the hearings, so we are left with a project area for the selected corridor where no assessment was done for significant lands and waters to the west of the selected corridor.*

- (VECs) We are concerned that partial, or small amounts of information and data are being used as the basis for large assumptions and assessment conclusions. The proponent needs to clearly state that the sets of data used in the EIS cannot be taken as complete or to assume that all data and information about a species is available. *The sources of data are not completely transparent, and there was nothing provided in methodology to identify the variances in data given data sets from different sources, of different ages etc were combined (Is there a 10%, 20% or greater variance in conclusions based on aggregate data used for the EIS?).*

- (Caribou) Bi Pole III EIS frankly acknowledges that the project will have an impact on woodland caribou (listed by both Manitoba Endangered Species Act, and Canada Species at Risk Act, stating: “Boreal woodland caribou (listed at Medium Risk in two ranges and Low Risk in a third range) will be negatively affected by the Bi Pole III HVdc transmission line. A number of core winter use and summer calving and calf-rearing areas are being traversed... the potential of long term residual impacts are not certain and will require ongoing monitoring and adaptive management...” (pg. 8-128). 7 herds in total may be impacted by the BP3 project (habitat, calving, wintering, food sources, etc.)

- *Manitoba Hydro tried to tell us in the hearings that any effects on woodland caribou could be mitigated. The proponent's experts also claimed that the 2012 National Woodland Caribou Recovery Strategy was the basis for its summer 2012 supplemental filing. That national strategy was not available until 3 months later.*

(Moose) The assessment seems to focus on the impact of moose at the Local Study Area level; however, a linear development like a transmission corridor could impact beyond the Local Study Area, as many individual animals cross the line during their annual cycle of movements, and as dispersers.

- *It is now a matter of fact that Manitoba Hydro and the EALB of Manitoba Conservation were far too slow to act on the need to change the route in order to keep secure more moose habitat. Late route changes, and attempts to handle changes to the project through a one page memo tabled in the hearings reduce confidence in the EALB, Manitoba Hydro, and the CEC. The participants waited two weeks before more information was made available. The CEC must be vigilant in the future so that any new information that is not in the EIS and associated filings and reports is caught and identified in the hearings. This is especially important when a proponent seeks to change a proposal with out providing EIS and assessment materials. Manitoba Hydro caused the 3 month adjournment, and took an uncivil approach to preparing the EIS for the route changes. Holding meetings with stakeholders, and communities where the notes or minutes of that meeting are not shared or reviewed, but are added to the EIS filings is not the conduct we wish to see from our utility.*

- *There is no confidence that Moose habitat throughout the Project Area for the preferred corridor will be maintained. The EIS and the hearings paid insufficient attention to the acknowledged risk by the Manitoba government to moose on the west side of the province, which has prompted closure of the hunt.*

Letter with Bipole II Licence – Non Regulatory Recommendations from the CEC.

The precedent setting letter that accompanied the Bipole III licence is an important step towards solving the problems that dog decisions regarding the hydro system in our province. Minister, you have indicated in the letter with the Bipole III licence that, “In addition to the enclosed Licence requirements, please be advised that it is my intent to ensure that all of the non-Licensing recommendations in the Clean Environment Commision report be implemented.

We respectfully submit that a plan, timeline, and transparent process with postings in the public registry will be needed for there to be any confidence that the non regulatory recommendations from the CEC are being implemented.

In particular a regional cumulative effects assessment of the hydro system will be credible and useful only happen if:

- Independent experts and services are secured to undertake the cumulative effects assessment
- Manitoba Hydro makes available all and any technical reports, sets of data, contracts, and planning, construction and operational information about all elements of the hydro system in our province, over time.
- The geographic scope of the region for the regional cumulative effects assessment is inclusive of all connected hydro system elements, with resulting connected effects - as confirmed by the CEC in its

2004 Wuskwatim projects report (See September 2003 motions hearing, affidavits, and motions with transcript.)

- The involvement of affected communities is assured
- Aboriginal rights are upheld (inherent, constitutional, treaty)
- All results are public
- Manitoba takes quick action based on the results.
- Lack of time or lack of resources is not used as an excuse to sidestep what must be done

Bipole III CEC Hearings – Manitoba Wildlands Closing Statements, March 2012

- We would ask the CEC and the panel to closely consider the scoping document at the very beginning of both sets of proceedings, if you will, to see whether it has been fulfilled. *Our observation as of September 2013 is that the lack of public review of EIS Guidelines for the project, and the further lack of requirements and scrutiny to fulfill the scoping document weakens and adds risk to the basis for the licence issued for Bipole III.*

-One thing that struck me throughout is we are not hearing about compensation for impacts and loss of income or sustenance from hunting, or gathering or tourism. We have a fairly narrow path here that has only seemingly to do with compensation for trapping. We have heard a variety of comments about how the compensation processes seem to be a closed door and not necessarily understandable. *Nothing appears to have been done about the basis for compensation despite the fact that significant portions (perhaps half of the Bipole III corridor length) travels through lands where there is no trapping. These same areas still see considerable hunting and gathering. Essentially the compensation program is flawed.*

If one was to harken back to the early stages of Wuskwatim proceedings, and just before the hearings on Wuskwatim there were 350 outstanding compensation claims still with respect to the Nelson House First Nation and the lands nearby at the time that those proceedings started.

-There are other participants who had been able to dig and work and research and respond and participate more thoroughly than we have, who have already said that they have got some real questions about the data and how it was acquired and how it was used, whose it was, and how it was aggregated.

The CEC recommendation concerning the need for modern and rigorous environmental assessment standards and requirements in Manitoba through the Environment Act or other regulatory tools, must result in clear standards and transparency on data used as the basis for any EAP. Also the EAB and licensing officials will need to review any proposal before it goes into a public process to make sure that it complies with the new modern standards. Guidelines and directions, which are public, will be needed for different kinds of projects also.

-We would really, I think, all benefit if the CEC finds ways to think about and make recommendations about earlier planning, earlier public information, earlier engagement of all affected parties, communities, municipalities, landowners, First Nations, Metis communities, earlier consultation, much, much earlier Aboriginal traditional knowledge gathering, much different standards and requirements. All of this, if it was done in advance of the EIS, means we would be in a very different sequence, I think, and potentially in a better place in terms of

decision making.

Both the CEC recommendations and the letter that accompanies the Bipole III point to the possibility that action will be taken for improvements in these areas.

Late EIS Materials

Increasingly Manitoba Hydro leans to filing a range of EIS materials late – these then are not part of the public reviews conducted under the Act, after the EIS or EAP is filed. Timing of late supplemental EIS materials during the CEC proceedings for Bipole III meant participants were challenged to review these, or to include them in preparation for the hearings. Many technical reports referred to in the Bipole III EIS materials were not filed, were not made available. There was no way to question the standards for maps provided with the EIS as that company was not available, and was no longer contracted by Manitoba Hydro. As per the CEC recommendations, and the letter accompanying the licence it is now time to have clear direction about the EIS materials for all EIS and EAP filings under the Environment Act. In particular Class II and Class III proposals must have transparent minimum requirements and direction to the proponent as to what they have to provide.

NOTE: For the current Keeyask Generation EIS which was filed in 2012 the technical reports were not made available until almost a year later. Many of these reports are from a range of years between about 2003 to 2012. When made available they were only on request, and then only certain of these technical reports were filed on line.

ATK – Aboriginal Traditional Knowledge

The transcript of the hearings, and the CEC report are clear. The ATK gathering, the somewhat pompous statements about how the ATK gathered was incorporated into the EIS, and the deficiency both in methods and products are simply embarrassing.

There must be standards, First Nation advisors, academic advisors, and content that is much more respectful and relevant in future Manitoba Hydro products, and EIS. It is high risk to include such deficient ATK content in an EIS for a project that will transport energy to customers for Manitoba Hydro electricity.

Manitoba Hydro needs to undertake some serious learning and then training of its staff in this regard. Perhaps the deficiency indicates a much larger set of problems.

Protected Areas and Parks

[\(From March 31 2010 Manitoba Wildlands Review of Scoping Document\)](#)

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.

The Bipole III corridor will traverse natural regions where representative protected areas are not yet in place. Nothing has been done to fulfill this commitment for protected areas prior to decisions about the Bipole III licence.

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 will also need 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.

First Nations affected by this proposal under the Environment Act may also be involved in lands selection for treaty land entitlement (TLE). While this information is considered confidential and is not made public by the Manitoba government, various departments of the Manitoba government review these land selections. Manitoba Hydro will need to be able to state in its Bipole III EIS that all lands selections have been taken into account, and avoided.

This was not done. In fact the EIS and contents of the hearings show that Manitoba Hydro basically ignored its responsibilities as a crown corporation with respect to TLE and land selection.

(From Manitoba Wildlands EIS Comment Letter References and Materials 2012)

E) Protected Areas: 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. *There are no new protected areas.*

F) Fulfill Public Policy: Manitoba Wildlands recommends that Manitoba Conservation provide Manitoba Hydro with the information its needs to fulfill public policy, and avoid contradiction to policies, commitments, reviews, and standards in place with regard to current and future parks, protected areas, crown land designations, and treaty land entitlement selections.

Essentially the scoping document process has reduced this obligation to the point that proponents, including Manitoba Hydro, can ignore public policy commitments. It does matter that the sustainable development principles and guidelines continue to be a standard which Manitoba Hydro is expected to respond to. If relevant public policies were again included in requirements for EIS especially for class three projects, consistency and rigour would return to public policy about lands and waters in Manitoba. An simple example would be woodland caribou. The scoping document (as the proxy for EIS or EAP guidelines) would require that any species listed under MESA would be assessed with specific requirements beyond the reductive steps which Manitoba Hydro resorts to in order to prove that effects are insignificant. If a species is listed under Manitoba law, then it is to be assumed that risk and effects are high.

Manitoba Wildlands further recommends that the EIS for Bipole III contain the analysis done in the project area/ corridor to verify the steps taken or to be taken based on our comments and recommendation above.

Bipole III CEC Report – Excerpts and Manitoba Wildlands Comments

- Page 31: “Using information from consultations and from data gathering, Manitoba Hydro identified several bottlenecks, where large numbers of constraints, such as protected areas, First Nations lands and heritage resources limited routing opportunities.”
- *It is unfortunate when a CEC report is vague about consultations terminology. It is even more unfortunate when the CEC report appears to assume that Manitoba Hydro gathered a lot of data. Most of the data used for this EIS was not gathered, that is very little of it is new, and very little field work was done. Mostly it was desk studies, and aggregated, non transparent data. Given that no new archeology was conducted, and predictive modeling based on known archeology was NOT applied to conclusions in the EIS we are concerned that this kind of content in the CEC report appears to simply accept what Manitoba Hydro said in the EIS. The contents of the hearings is an update on anything in the EIS documents.*
- Page 67: “Four other socio-economic VECs are expected to experience moderate negative effects after mitigation: private forest lands, designated protected areas and the Protected Areas Initiative, domestic resource use, and aesthetics. Of these, one (private forest lands) has a potential effect limited to the immediate Project Footprint (the area directly occupied by the Final Preferred Route (FPR) and other Project components). Protected areas, domestic resource use, and aesthetics were deemed to experience an effect only within the Local Study Area. On the basis of the limited range of these effects, they were deemed “not significant.”
- *The CEC identified that designated protected areas, and the Protected Areas Initiative (for potential protected areas) would experience moderate negative effects despite mitigation. Yet we have no recommendation from the CEC about protected areas despite the fact that Bipole III will traverse several natural regions – which are the biophysical and policy context for both establishment of protected areas and their contribution to representation of our natural world in Manitoba. This quote above is also an extreme example of where the CEC technical writer appears to have used the contents of the EIS rather than the contents of the hearings as the basis for its report.*

Page 68:

“VEC - Designated Protected Areas and the Protected Areas Initiative:

In planning the Bipole III Project, Manitoba Hydro assessed protected areas, according to the level of protection given them, using four tiers from high to low. The top tier, in terms of protection, consists of national and provincial parks and ecological reserves. The next tier is areas designated as Areas of Special Interest (ASI). ASIs are areas that are under consideration for permanent protection because of their unique ecological features, and may include ecological reserves, wildlife management areas, park reserves, forest reserves, community pastures or other Crown lands. The next tier is wildlife management areas (WMAs) and forest reserves. Finally, community pastures and Crown lands form the lowest tier.



After twenty years of consistent public policy and protection standards for protected areas in Manitoba we determined it was not necessary to advise the CEC hearings in this regard. Given the protection standards, policies, regulatory framework etc for protected areas through the last twenty years are all easily accessible, including on our website, we can only conclude that the technical writer for the CEC decided to rewrite the public policy and regulatory framework for protected areas in Manitoba. Everything above is incorrect. If it is a quote from Manitoba Hydro then this is doubling a problem. Fact checking must be done..

Manitoba's Protected Areas Initiative seeks to permanently protect an adequate sample of all the landscapes that represent the biodiversity of Manitoba's natural regions. The network of protected areas is selected based on what are known as "enduring features." Enduring features are identified through soils and geological landforms, under the assumption that biological diversity is a product of the varied long-term features in the landscape.

The essential element missing here is the province's natural region and representation system.

The FPR crosses one Area of Special Interest under the Protected Areas Initiative: ASI 114, Stephens Lake. Stephens Lake is a large ASI where four different natural regions meet, and it spans the transition from boreal forest to tundra, containing species from both zones. Within Stephens Lake ASI the Bipole III right-of-way will cross two moraines that have been described as rare enduring features. *So the mitigation to be recommended is ?*

The route also comes close to two provincial parks: Clearwater Lake and Red Deer River. Both of these parks have boundaries within the 4.8 km wide Local Study Area, though neither is crossed by the right-of-way. Where the transmission line is closest to Clearwater Lake Provincial Park, the existing railway line and Wuskwatim transmission line are between the FPR and the park.

There are land use classifications in Clearwater Lake park that are protected. It is not clear whether Manitoba Hydro OR the CEC is unaware of this.

The line will be visible from Red Deer River Provincial Park, a small roadside rest stop on Highway 10. The FPR also comes close to a planned addition to the Lake Winnipegosis Salt Flats Ecological Reserve, which protects an area of salt flats to the east of Highway 10 on the southwest shore of Overflow Bay on Lake Winnipegosis. While the ecological reserve will not be crossed by the right-of-way, it is within the 4.8 km planning corridor for the transmission line. A sensitive saltwater spring that feeds the salt flats is also 1.3 km from the right-of-way. In order to ensure that the salt spring is not damaged, it will be marked and avoided during construction and operation, with a 50-metre buffer around the spring. *It appears that the intention to increase the Salt Flats Ecological Reserve was missed by the CEC.*

The right-of-way also crosses two WMAs, which are established under The Wildlife Act for management, conservation and enhancement of wildlife. WMAs have a variety of levels of protection and some are permanently protected from resource extraction and are part of Manitoba's protected areas network.



This is another inaccurate statement.

The northern end of the FPR crosses 14 km of the Churchill WMA, the province's largest WMA, near the Keewatinooow Converter Station site. Northeast of The Pas, the FPR crosses 50 km of the Tom Lamb WMA. The Tom Lamb WMA includes a large part of the Saskatchewan River Delta and is an important breeding area for waterfowl and provides habitat for furbearers, moose, wolves, and black bears, as well as feeding and occasional nesting sites for bald eagles. In this area, approximately 20 km of the FPR will parallel existing developments such as the railway, highway and an existing 230 kV AC transmission line.

The Saskatchewan River Delta is a high priority candidate for protected status, according to the Manitoba government website. It is not at this time protected.

Southeast of the Pas, the FPR crosses two proposed WMAs. It runs through approximately 46 km of the proposed Summerberry WMA, 17 km of which will have protected status.

This is another inaccurate statement.

The FPR follows an existing transmission line right-of-way through this area.

Approximately 30 km south of The Pas, the right-of-way will pass through the proposed Red Deer WMA, a landscape of bogs, fens, and freshwater and saltwater marshes that is extensively used by the Bog herd of boreal woodland caribou. The Bipole III right-of-way will cross approximately 27 km of this new WMA.

See above regarding the Saskatchewan River Delta. This proposed WMA is part of the candidate area for protected status, see Manitoba government website.

In order to mitigate or minimize effects on protected areas, Manitoba Hydro plans to locate towers, where possible, to reduce adverse effects. In order to minimize disruption within areas of enduring features, construction will occur only in the winter, and there will be no activities such as construction of access routes or establishment of new borrow pits off the right-of-way."

The reference above to 'areas of enduring features' is odd. Every meter of Manitoba is covered by an enduring feature.

- Page 71: "As well, community pastures are of interest to Manitoba's Protected Areas Initiative because they preserve some native prairie habitats."
- *Extensive plant species inventories are conducted in community pastures and many provide habitat for endangered species. This is easily verified through the CDC.*
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- Page 97: "Officials of the Protected Areas Initiative were concerned that the adjusted route would not have a sufficient buffer separating it from the Bell and Steeprock Canyons Protected Area, located northwest of Bellsite. However, a 100-metre buffer would be sufficient to eliminate concerns."
- Again the CEC technical writer appears to have simply referred to the EIS. A 100 meter buffer is insufficient by any conservation biology standard or assessment in enduring features and uplands like the Steeprock Canyons protected area include. Wouldn't it be relevant to accept the TAC comments from government staff rather than refute them ?



There are various examples in Manitoba of buffers greater than 100 meters in the management plans and regulations for protected areas.

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- Page 139: “Protected Area: As defined by the World Conservation Union, a protected area is an area of land and/or water especially dedicated to the protection and maintenance of biological diversity, and of natural and associated cultural resources, and managed through legal or other effective means.”
- *The definition of protected areas in Manitoba’s regulatory system and public policy system over the last 20 years is the reference point that should be evident in this report.*
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Social Responsibility

While it is clear from the CEC report that Manitoba Hydro filed seriously deficient materials, there are larger questions given the proponent is a crown corporation. Why did this happen ? Why does our utility think it is alright to file EIS materials which simply fail to explain and assess their project adequately ? What happened to the basis for EIS where Manitoba Hydro actually did field work, presumably posing technical and scientific questions, and seeking the answer to those questions? Why were so many of the Bipole II technical reports simply not provided ? And why does it seem that our utility is behind the times in its methods, standards, access to information, engagement and environmental effects assessment systems ?

Does all this risky corporate behaviour have a basis in the assumption that a licence will always be issued ?

Surely our utility has a greater social responsibility than it has displayed in the Bipole III process over the last four years. Certainly some of the problem rests with our government and its failure to act on the CEC recommendations in its 2004 Wuskwatim report. Essentially that failure left the door open to make the same mistakes again.

Manitoba Wildlands hopes to see quick, public and independent action on the CEC recommendations pertaining to EIS and EA standards and the need for a regional, independent, cumulative effects assessment of our hydro system before any further decisions are made regarding hydro projects.

Woodland caribou

[\(From Manitoba Wildlands Comments March 31 2010 Bi Pole III Scoping Document\)](#)

Woodland caribou are listed as a threatened species under the Manitoba Species at Risk Act and the Federal Species at Risk Act (SARA)(western population). Section 68. (1) of SARA states:

“No person shall destroy any part of the critical habitat of a listed endangered species or a listed threatened species that is in a province or territory and that is not part of federal lands.”

Manitoba Wildlands would therefore like to know if any of the proposed Bipole III routes cross critical habitat inhabited by woodland caribou. We request that Manitoba Hydro also compile information about each of the sub species of caribou that may be impacted by the Bipole III project, starting with woodland caribou. The information must be included in the EIS so a thorough review and assessment is feasible. In particular Manitoba Conservation needs to provide Manitoba Hydro with historic data as

to all sub species of caribou in the project area in order to support an accurate and appropriate assessment.

While some of this was done, woodland caribou effects assessment conclusions by the proponent was there were insignificant.

Now that woodland caribou in Manitoba are listed under both the federal act (SARA) and the provincial act (MESA) the Bipole III EIS will need to include up to date and historic information about woodland caribou in the project area. Any wintering or calving areas (past and current) with any overlap with the project area should be included in the EIS contents and assessment.

The approach to woodland caribou in the EIS for Bipole III is cavalier. The Manitoba government is not enforcing its own Endangered Species Act. The project area and location of identified at risk woodland caribou herds resulted in lands and habitat to the east of these herds not being assessed. The CEC recommendations are clear, and the letter with the licence area is also clear regarding woodland caribou.. But how will the utility's activity to protect woodland caribou be verified? The public registry needs to be utilized as the COSDI report recommended, so that monitoring reports and woodland caribou status reports are public.

We would caution the proponent regarding other species to avoid the pitfall shown in recent project EIS under our Environment Act, where limited data sets that do not provide adequate species information for assessment are used to:

- Indicate there are few of a species present
- Indicate that there are no significant risks or impacts to the species

Manitoba Hydro holds or has access to consider data about species in the project area, corridor options. But more will be needed to be able to fulfill biophysical and species information for the EIS. It will also be important to make sure reports and analyses are provided with the EIS, rather than interpretations of non-disclosed reports.

The EIS and hearing presentations are based on limited data, and limited admission that we simply do not have enough information about the species in question. This is particular serious when Manitoba Hydro decided to do little field work for a transmission project that is the most significant to date in Manitoba. It is relevant to remind the utility and the regulators that in the period between 1989 and 1993 Manitoba Hydro conducted extensive field work for their preferred routes (three options) for Bipole III. All of that data has been held in private by our utility since. This field work of course was on the east side of Manitoba.

Linear Disturbance & Transmission Corridors (content refers to 2004 analysis.)

Creation of linear corridors and transmission lines is of great concern in regard to wildlife and forest management. Not only does the construction of transmission lines causes great disturbance to the surrounding ecosystem, but also transforms the system so that the current forest-wildlife interactions no longer exist.

Numerous studies have been done on this topic, with particular interest in Woodland Caribou. Nellemann et al. (2001) demonstrated that woodland caribou show diminished use of habitat within 2.5 km of power lines. Linear corridors may also fragment caribou range. In Alberta, gravel roads with moderate vehicular traffic acted as a semi-permeable barrier to caribou movements.

Finally, Caribou may be at higher risk of predation in the vicinity of linear corridor. Wolves appear to capitalise on corridors as travel routes, increasing access to caribou range and ability to hunt caribou. (James & Stuart-Smith 2000). It has also been verified that humans use transmission corridors to ease access while hunting. Finally, concern based on conservation biology shows that edges of habitat, such as those existing along corridors, can increase of predation and decrease diversity in an ecosystem (Yahner, 1988, Eric Bayne 2004).

Manitoba Wildlands would like to know what will be done to avoid or mitigate the impacts described above. We suggest presentations posted in the archives of EnergyManitoba.org, especially by Dr. James Schaeffer, and Dr. Erin Bayne, as they pertain to linear disturbance and caribou, and a variety of birds species. Scientific analysis of impacts from linear disturbance in our boreal forests support the need for the proponent to clearly identified the impacts on species from this transmission corridor, and system of roads. Clear acknowledgement of impacts is the best basis for environmental management planning, and mitigation.

The text above is included to verify that all of these same concerns, including for some of the same woodland caribou herds, were brought forward during the Wuskwatim hearings in 2004.. Manitoba Hydro continues to avoid the conservation biology methods and analysis tools for linear disturbances.

Climate Change

[\(From Manitoba Wildlands March 31 2010 Review of Scoping Document\)](#)

Climate Change: Policies, Assumptions

The scoping document does not expect information as to how the Bipole III EIS will address this project's contribution and mitigation regarding the effects of the project on climate, carbon stocks, etc. The EIS should include references to how the project will support *The Manitoba Climate Change Strategy* (2008), and the *Manitoba Climate Change and Emission Reduction Act*. In addition, we would suggest that the EIS should also respond to recommendations in the Manitoba Climate Change Task Force report – where specific to Manitoba Hydro. See questions above. It is also necessary for the EIS to address any agreements, or requirements Manitoba is part of with US States, or electricity/transmission consortiums regarding or affecting climate change. Among other reasons, energy on this DC line is likely to be exported to the US.

None of the above were done.

We would observe that when the utility has several projects being constructed, and planned it is overdue for Manitoba Hydro to clearly indicate how it will deal with its emissions *in Manitoba*. (See commitments made during the press conference to table the new climate Act in the Manitoba legislature. These commitments were that all emissions reductions under the Bill, and the new Climate Strategy would be achieved *inside Manitoba*).

Most of the above was not done. Manitoba Hydro continues to consider emissions from planning, and construction as temporary and therefore not relevant. Carbon inventory, carbon stocks, and reporting specific emissions from Bipole III planning, construction, and operation has not been provided. More importantly failure to respond to both regulatory and public policy about climate change puts in question the responsibilities of our utility. The attitude that hydro generation, and therefore all the elements of the system (reservoirs, transmission, converter stations, etc) are carbon neutral is a second cousin to climate change denial. While the EIS acknowledged permafrost, and includes a

change in tower foundation due to risk of changes in permafrost, there is no systematic response to the climate change effects of the project OR the potential effects of climate change on the project.

It is time for there to be a requirement that a carbon inventory, budget, and emissions standard for no net loss of carbon etc be required for an EAP or EIS and project proposal under the Environment Act in Manitoba.

[\(From Manitoba Wildlands EIS Comment Letter References and Materials 2012\)](#)

R) Climate Change in EIS: Manitoba Wildlands recommends that Manitoba Hydro include in the EIS information as to the approach to project planning, engineering, and all stages of construction and operation of Bipole III in relation to climate change. We also recommend that Manitoba Conservation begin to consider how to make sure that scoping of effects and impacts from projects on climate are thoroughly scoped in advance of EIS preparation for projects under our Environment Act. *Not done.*

S) Carbon and GHG Planning, Reporting: Manitoba Wildlands recommends that Manitoba Conservation and Manitoba Hydro use the Bipole III project as a demonstration of methods for carbon and green house gas planning, reporting, and mitigating to fulfill public policy and commitments made by the Manitoba government. *Not done.*

T) Carbon Inventory and Budget: Manitoba Wildlands recommends that the Bipole III transmission project be designed, and planned, as a showcase for how Manitoba Hydro and Manitoba Conservation will verify carbon stocks inventory, set a project carbon budget, report emissions during construction, and mitigate carbon loss with the aim of reporting in a transparent manner all steps to achieve a no net loss of carbon goal for the project. *Not done.*

U) Data – Hydro Emissions: Manitoba Wildlands recommend that the EIS specifically address our recommendation above, while addressing the coming 25,000 tonne reporting requirement for GHGs in Canada, for each project or installation. The context for this recommendation is the current lack of public data about Manitoba Hydro emissions, including for annual emissions from each reservoir, during construction of projects, during operation of projects, and especially during high water years, which produce extra methane. We would further recommend that Manitoba Hydro conduct a survey of electrical utilities – especially those publicly owned – to share expertise in this matter, and in order to provide relevant contents in the EIS. *Not done.*

Admissions during the Hearings: Transmission

During the hearing the Manitoba Hydro staff panel regarding the construction of Bipole III the leader repeatedly referred to the problems with the Wuskwatim transmission project. In the several comments the theme was that Manitoba Hydro had learned from its mistakes and the problems with the Wuskwatim Transmission project.

The lack of inspection, monitoring, or follow up on class three and two licences under the Manitoba Environment Act is an ongoing problem. The simple question is whether the Wuskwatim Transmission licence is being upheld. In this case the proponent was saying in a formal administrative hearing that problems had occurred with another similar project. It is not clear whether those problems continue.

We suggest that the Minister has a responsibility to determine what these problems were, how or whether they have been fixed, and how they in turn may affect the Bipole III project, and licence etc.

Bipole III Licence – Concerns

While there are strong clauses, and precedent setting requirements in the licence and the accompanying letter we also find some striking problems. The licence says it is written based on: the EIS – which was significantly deficient, and the Bipole III report from the CEC. There is even reference to the EIS as filed in December 2011. That was only the initial EIS filing. Given the number of supplemental filings, additional reports, and materials provided due to the IR process the language in the licence is at best confusing.

This language in the licence says that all the presentations, evidence, expert analysis, formal information requests, and contents of the transcripts have been skipped over. Why did we spend a year collectively working on the reviews, proceedings and hearings ?

Did the regulators review the transcripts? Did the executive council staff who attended the hearings make any recommendations based on the witnesses, participants, filings, or cross examination? Essentially the CEC report deals with the primary recommendations and patterns in the materials, and hearings. It cannot possibly cover everything. Yet the language in the licence is problematic. It essentially makes anything else irrelevant.

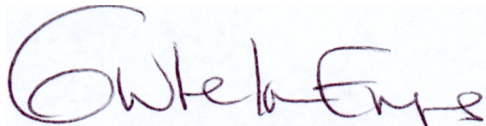
An example from the hearings that supports the concern stated above: a steady set of commitments from Manitoba Hydro made during the hearings, documented in the transcript, are not all reflected in the CEC report, licence or accompanying letter. This means that participants, legal counsel, and witnesses achieved a range of commitments from Manitoba Hydro that may have been ignored in writing this licence. Why ? Was any analysis done ?

Another set of language in the licence is of equal concern. The licence clauses repeatedly put the condition of ‘before construction’ on the requirements of Manitoba Hydro with respect to Bipole III. It is reasonable to assume this applies to the construction of any element of the whole project. Manitoba Hydro is already tendering work to construct elements of the project *before November 1, 2013*.

There may well be a set of contracts, tenders and intended actions for this fall and winter for construction of Bipole III. How will this licence be monitored ? What are the consequences for Manitoba Hydro if they do not fulfill the licence requirements, or ignore them ?

Clearly the CEC's closing recommendation for a regional cumulative effects assessment is essential – because we have failed to monitor the operations and licences for our hydro system. As a participant in the Wuskwatim hearings, including the motions hearing that was a trigger for many of the significant Wuskwatim recommendations from the CEC, I can say that we are late, and accruing risk because we have not reviewed the effects of our hydro system. *We must do this now*, and before any more decisions are taken. Social, economic and environmental effects are affecting the ability to make decisions, and manage the system we have, let alone additions to the system. Manitoba Wildlands expects the CEC recommendations to be acted on, and the licence for Bipole III to be upheld.

ORIGINAL SIGNED BY



Gaile Whelan Enns, Director
Manitoba Wildlands.