

January, 28, 2021

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-delivered via email-

**RE: Manitoba Hydro's Application for a Final License for the Augmented Flow Program for the Churchill River Diversion/Missi Falls Dam - Application for Final License *The Water Power Act***

Please accept this letter as an official comment on the final licence decision for the Churchill River Diversion (CRD) project, and place it in the public registry under *The Water Power Act*.

We note that the process for issuing renewal or termination of the final license in accordance with section 46 of the *Water Power Regulation* has not started because the CRD still operates on an interim license nearly fifty years later.

We also note the situation is also very similar for Lake Winnipeg Regulation (LWR). Although, we are generally focussing these comments on the CRD, frankly, you really cannot talk about the one project without the other as the two projects are fundamentally linked together. In fact the only proper analysis is to look holistically at the entire watershed and the entire hydroelectric system together. Not taking such a holistic systems approach does a disservice to all Manitobans.

In 1973 Manitoba Hydro was granted an interim license under *The Water Power Act* to operate the CRD. The CRD diverts most of the water from the Churchill River into the Rat River–Burntwood River–Nelson River system. This is done through control structures and diversion channels that drastically expand South Indian Lake and Rat Lake converting them into impoundment reservoirs. Impacted Indigenous Nations and peoples were not even informed until 1973 even though officials had been planning the project for nearly a decade.

Manitoba Hydro has not even been held to the terms of the original interim licence for the CRD. For the past 35 years, beginning in 1986, Hydro has operated on annual permits, known as the Augmented Flow Program (AFP), that allows our utility to raise water levels even higher and to engineer greater water fluctuations than set out in the original 1973 interim *Water Power Act* licence.

It is hard to overstate the massive scale and impact the series of hydroelectric projects, which required the Churchill River Diversion interim licence and Lake Winnipeg Regulation interim licence, have had on the entirety of Manitoba's communities, environment, and economy. Loss of opportunity, rights, access to lands resulting have had effects beyond Manitoba.

These projects fundamentally altered the landscape and biodiversity of the province. Diverting 85 percent of the flow of the mighty Churchill River through the Rat-Burntwood river system into the Nelson River system, causing, and maintaining flooding and social devastation along the waterways. Lake Winnipeg, the 10th largest freshwater lake on the planet, also operates as the 3rd largest hydroelectric reservoir on the planet.

These immense engineering projects alter the entire natural water systems in our province and beyond, and they are how Manitoba produces most of its electricity.

The original flooding created by these projects desecrated burial sites, and historically significant areas, blocking access to traplines, fisheries, and ability to exercise Indigenous rights.

The fluctuations in water levels, ice build-ups, mercury contamination, impacted fish and wildlife populations, racial and sexual abuse by Hydro employees and contractors are only some of the ongoing issues.

As Manitobans we all need to acknowledge that these impacts are not in the past, they continue on a day to day basis for those impacted.

These projects were also subject to not only provincial permits but also federal permissions under the *Fisheries Act*, the *Navigable Waters Protection Act* (as it was then, now the *Canadian Navigable Waters Act*), the *Migratory Birds Convention Act*, and other permits as required at the time. These immense projects were also funded by both federal and provincial government funds.

A full independent, public, ecological, economic, and social assessment of the hydroelectric dams system built on the Nelson and Churchill River systems has never been conducted. (Wuskwatim and Keeyask only have environment licences.) Modern environmental assessment laws had not yet come into existence in Manitoba, and thus the CRD and Lake Winnipeg Regulation projects were never subject to the same level of review they would be today.

We submit that the final licence for the Churchill River Diversion project should not be granted at this time, nor should the Augmented Flow Program be simply assumed given it was never assessed, until:

1. The fundamental and Constitutional obligations to consult and accommodate impacted Indigenous communities are satisfied;
2. A full assessment, including traditional ecological knowledge, on the cumulative effects of past hydroelectric dams in Manitoba and the potential future impacts from construction of more connected projects and their future decommissioning would have on the entire watershed is completed and available.
3. The Churchill River Diversion (CRD) project become compliant with not only *The Water Power Act*, but additionally with legislation such as *The Environment Act* (Manitoba) and the *Impact Assessment Act* (Canada), with such a review to include an independent public citizens review process;
4. The Lake Winnipeg Regulation (LWR) project become compliant with not only *The Water Power Act*, but additionally with legislation such as *The Environment Act* (Manitoba) and the *Impact Assessment Act* (Canada), with such a review to include an independent public citizens review process;
5. That the such a review of the CRD and LWR be a broad systems wide review of the entire Manitoba Hydro hydroelectric system, including not only the above aforementioned projects but all hydroelectric and water control projects, both those currently in existence as well as all of those that are anticipated at some future point.

The impacts of hydroelectric development on Manitoba are immense and ongoing today.

As the Wa Ni Ska Tan (an alliance of Hydro-Impacted Communities, academics, and social justice NGOs) succinctly summarizes in its letter to you:

As an Alliance we have been documenting the many adverse impacts of hydro development in Manitoba, which are environmental, economic, cultural, and social in nature. The construction of mega dams throughout Northern Manitoba and their accompanying “man camps” have resulted and are still resulting in rape and sexual assault, racism, substance abuse, displacement and relocation of entire communities, the loss of traditional livelihoods, suicide, environmental degradation caused by construction, hydro corridors, fluctuating water levels, and flooding. This same environmental degradation leads to boating and snowmobile accidents, injuries, and deaths. This is far from an exhaustive list, but these impacts give you an idea of what happens when a crown corporation is allowed to operate with limited accountability and little to no meaningful consultation with the communities they are impacting.<sup>1</sup>

Since 2006 the Green Party of Manitoba has taken the position that no new dams should be built until a full assessment, including traditional ecological knowledge, on the cumulative effects of all existing hydroelectric dams in Manitoba as a system; and the potential future ecological, social and economic impact that construction of more dams and their infrastructure would have on the entire watershed.

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<sup>1</sup> Nov. 30, 2020 - Wa Ni Ska Tan letter

The Manitoba Clean Environment Commission (CEC) also recommended in 2006 that the Government of Manitoba resolve all outstanding historical issues with regard to the Churchill River Diversion, the Augmented Flow Program and Lake Winnipeg Regulation, and following resolution of these interim licences, that Manitoba Hydro apply for final licenses under *The Water Power Act* and *Environment Act*.

Seven premiers since these projects have been built, and little has been done to address these social, environmental, and economic impacts.

But now, without public review and under the cover of a pandemic, with time running out under *The Water Power Act* regulations (Hydro needs a final licence in place by Spring 2022 in order to be able to apply to extend its licence for a further 50 years in accordance with the *The Water Power Act* regulations), it looks like your Government is trying to quickly issue the final licence for the Churchill River Diversion over the objections of Indigenous communities and peoples.

This is not how we build a solid foundation of reconciliation from which to move forward. This is not how we respect inherent Indigenous rights, Treaty rights, and international legal covenants such as the *United Nations Declaration on the Rights of Indigenous Peoples*. Nor is it how any government of Manitoba protects the economic, social and economic rights and risks to those rights of all our citizens.

It should of course be stated that we are not purporting, nor do we wish to speak for these Indigenous Nations, and we have taken it upon ourselves to ensure that First Nations and Metis Governments are copied on this correspondence so they can choose to their own input.

However, it is clear that many First Nation and Metis communities across the entire province have been affected by various hydroelectric, augmented flow, transmission, and reservoir developments.

We acknowledge the CEC hearings and report from 2015 regarding LWR, but the report made no recommendations regarding licensing under the *The Water Power Act*, with little tangible results to date.

We also acknowledge the Regional Cumulative Effects Assessment (RCEA) undertaken by Manitoba Hydro and the Manitoba Government, on the recommendation of, and facilitated by the CEC. That said, although this “review” is appreciated it was not adequate. It was a paper only process, rather than one that involved public hearings and included public comment hearings being held in impacted communities. This resulted in less public awareness regarding the entire project. There was not adequate funding for public participation, making it difficult for the public to participate. The RCEA took a retrospective approach that failed to take into account that hydro impacts continue to be felt today.



We once again urge this Government to ensure a holistic, citizen led, review that takes the time to fully assess the ecological, economic, cultural, and social impacts of the whole system. Conducting such a systematic and holistic review, as we are suggesting in our letter herein, although challenging, is also sorely needed. Getting this right presents an opportunity for us all to move forward, whereas quickly approving the interim licence will simply continue patterns of past mistakes.

We are copying here elected persons who have responsibility in these matters, including through various federal and provincial laws.

We look forward to a prompt response, and request that we receive a response within days from receipt of this letter.

Yours truly,

Leader, Green Party of Manitoba

cc: Chief Shirley Ducharme, O-Pipon-Na-Piwin  
Leslie Dysart, CEO of the Community Association of South Indian Lake  
Chief Doreen Spence, Tataskweyak Cree Nation  
Chief David Monias, Pimicikamak Cree Nation / Cross Lake Band % Asst. to Chief Rhona Halcrow  
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President David Chartrand, Manitoba Metis Federation (MMF)  
Jack Park, MMF Minister of Energy and Infrastructure  
Grand Chief Arlen Dumas, Assembly of Manitoba Chiefs  
Grand Chief Garrison Settee, Manitoba Keewatinowi Okimakanak Inc.  
The Honourable Brian Pallister, Premier of Manitoba  
The Honourable Eileen Clarke, Minister of Indigenous and Northern Relations, Manitoba  
The Honourable Ron Schuler Minister of Infrastructure, Manitoba  
The Honourable Jeff Wharton, Minister of Crown Services, Manitoba  
Tom Lindsey, MLA Flin Flon  
The Right Honourable Justin Trudeau, Prime Minister of Canada  
The Honourable Jonathan Wilkinson, Minister of Environment and Climate Change, Canada  
The Honourable Marc Miller, Minister of Indigenous Services, Canada

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