

**Decision Statement**  
**Issued under Section 54 of the *Canadian Environmental Assessment Act, 2012***

to  
Manitoba Infrastructure  
Mike Knight, Acting Director, Remote Road Operations

Room 200, 155 Carlton Street  
Winnipeg, Manitoba  
R3C 3H8

for the  
**Project 4 – All-Season Road Connecting Berens River to Poplar River First Nation**

**Description of the Designated Project**

Manitoba Infrastructure is proposing the construction of an all-season road on provincial Crown land, designed as a 2-lane gravel public highway approximately 94 kilometres in length. As proposed, the road would begin near the Berens River First Nation, on the east side of Lake Winnipeg, Manitoba, and extend north from the Berens River to the Poplar River First Nation reserve boundary. Four major water crossings (bridges) over the Berens, Etomami, North Etomami, and Leaf Rivers, would also be constructed as part of the Designated Project.

**Conduct of the environmental assessment**

The Canadian Environmental Assessment Agency (the Agency) conducted an environmental assessment of the Designated Project in accordance with the requirements of the *Canadian Environmental Assessment Act, 2012*. The Agency commenced the environmental assessment on January 22, 2015 and submitted its report to me in my capacity as Minister of Environment and Climate Change.

**Decision on environmental effects referred to in subsection 5(1) of the *Canadian Environmental Assessment Act, 2012***

In accordance with paragraph 52(1)(a) of the *Canadian Environmental Assessment Act, 2012*, after considering the report of the Agency on the Designated Project and the implementation of mitigation measures that I consider appropriate, I have determined that the Designated Project is not likely to cause significant adverse environmental effects referred to in subsection 5(1) of the *Canadian Environmental Assessment Act, 2012*.

In accordance with subsection 53(1) of the *Canadian Environmental Assessment Act, 2012*, I have established the conditions below in relation to the environmental effects referred to in subsection 5(1) of the *Canadian Environmental Assessment Act, 2012*, with which Manitoba Infrastructure must comply.

**Decision on environmental effects referred to in subsection 5(2) of the *Canadian Environmental Assessment Act, 2012***

The carrying out of the Designated Project may require the following federal authorities to exercise a power or perform a duty or function conferred on them under an Act of Parliament other than the *Canadian Environmental Assessment Act, 2012*:

- the Minister of Fisheries and Oceans may issue authorization(s) under paragraph 35(2)(b) of the *Fisheries Act* and may issue an agreement or permit under section 73 of the *Species at Risk Act*, for engaging in activity affecting a listed aquatic species, any part of its critical habitat or its residences;
- the Minister of Natural Resources may issue a license under paragraph 7(1)(a) of the *Explosives Act* for the storage of explosives; and
- the Minister of Transport may approve or permit works that impact navigation on navigable waters under Section 6 or 9 of the *Navigation Protection Act*.

In accordance with paragraph 52(1)(b) of the *Canadian Environmental Assessment Act, 2012*, after considering the report of the Agency on the Designated Project and the implementation of mitigation measures that I consider appropriate, I have determined that the Designated Project is not likely to cause significant adverse environmental effects referred to in subsection 5(2) of the *Canadian Environmental Assessment Act, 2012*.

In accordance with subsection 53(2) of the *Canadian Environmental Assessment Act, 2012*, I have established the conditions below in relation to the environmental effects referred to in subsection 5(2) of the *Canadian Environmental Assessment Act, 2012*, with which Manitoba Infrastructure must comply.

**Consultation with Indigenous groups**

In establishing the conditions below in relation to the environmental effects referred to in subsections 5(1) and 5(2) of the *Canadian Environmental Assessment Act, 2012*, I took into account the concerns and interests identified in the consultation process with Indigenous groups. I also considered the measures to address these concerns and interests that have been identified in the environmental assessment and consultation processes. I am satisfied that the consultation process undertaken is consistent with the honour of the Crown and, with the conditions I have established, that the concerns and interests of Indigenous groups are appropriately accommodated for the purpose of issuing this Decision Statement.

**1 Definitions**

1.1 *Agency* means the Canadian Environmental Assessment Agency.

1.2 *Baseline* means the environmental conditions prior to initiating construction of the Designated Project.

- 1.3 *Construction* means the phase of the Designated Project during which site preparation, building, or installation of any components of the Designated Project are undertaken by the Proponent.
- 1.4 *Days* means calendar days.
- 1.5 *Designated Project* means the Project 4 – All-Season Road Connecting Berens River to Poplar River First Nation Project as described in section 2 of the environmental assessment report prepared by the Canadian Environmental Assessment Agency (Canadian Environmental Assessment Registry Reference Number 80094).
- 1.6 *Designated Project area* means the geographic area occupied by permanent and temporary Designated Project components, including the all-season road right-of-way, access roads, and quarries and borrow areas.
- 1.7 *Environmental effects* means “environmental effects” as described in section 5 of the *Canadian Environmental Assessment Act, 2012*.
- 1.8 *Fish* means “fish” as defined in subsection 2(1) of the *Fisheries Act*.
- 1.9 *Fish habitat* means “fish habitat” as defined in subsection 2(1) of the *Fisheries Act*.
- 1.10 *Fisheries and Oceans Canada* means the Department of Fisheries and Oceans as established under subsection 2(1) of the *Department of Fisheries and Oceans Act*.
- 1.11 *Follow-up program* means “follow-up program” as defined in subsection 2(1) of the *Canadian Environmental Assessment Act, 2012*.
- 1.12 *Heritage value* means the aesthetic, historic, scientific, cultural, social, or spiritual importance or significance for past, present, or future generations.
- 1.13 *Indigenous groups* means Poplar River First Nation, Berens River First Nation, and Manitoba Metis Federation.
- 1.14 *Listed species at risk* means a species that is listed on the List of Wildlife Species at Risk set out in Schedule 1 of the *Species at Risk Act*.
- 1.15 *Migratory bird* means “migratory bird” as defined in subsection 2(1) of the *Migratory Birds Convention Act, 1994*.
- 1.16 *Mitigation measures* means “mitigation measures” as defined in subsection 2(1) of the *Canadian Environmental Assessment Act, 2012*.
- 1.17 *Offsetting plan* means “offsetting plan” as defined in section 1 of the *Applications for Authorization under Paragraph 35(2)(b) of the Fisheries Act Regulations*.
- 1.18 *Operation* means the phase of the Designated Project during which public access to the Designated Project is allowed, including periods during which public access to the Designated Project may be temporarily interrupted.

- 1.19 *Progressive reclamation* means a planned approach to reclamation which is carried out concurrently with all phases of the Designated Project to progressively return any physically disturbed areas to a state as close to the baseline as possible, as soon after the disturbance as practical.
- 1.20 *Proponent* means Manitoba Infrastructure and its successors or assigns.
- 1.21 *Qualified individual* means someone who, through education, experience, and knowledge relevant to a particular matter, may be relied on by the Proponent to provide advice within his or her area of expertise. Knowledge relevant to a particular matter may include community and Indigenous traditional knowledge.
- 1.22 *Record* means “record” as defined in subsection 2(1) of the *Canadian Environmental Assessment Act, 2012*.
- 1.23 *Relevant authorities* means federal and/or provincial authorities that are in possession of specialist or expert information or knowledge, or that have a responsibility for the administration of a law or regulation, with respect to the subject matter of a condition set out in this Decision Statement.
- 1.24 *Reporting year* means April 1 of a calendar year through March 31 of the subsequent calendar year.
- 1.25 *Serious harm* means “serious harm” as defined in subsection 2(2) of the *Fisheries Act*.
- 1.26 *Structure, site, or thing of historical, archeological, paleontological, or architectural significance* means a structure, site, or thing that is determined by a qualified individual, on the basis of heritage value, to be directly associated with an important aspect or aspects of human history or culture.
- 1.27 *Transport Canada* means the Department of Transport as established under subsection 3(1) of the *Department of Transport Act*.
- 1.28 *Wetland* means land saturated with water long enough to promote formation of water altered soils, growth of water-tolerant vegetation, and various kinds of biological activity that is adapted to the wet environment and separated into five classes: fen, bog, marsh, swamp, and shallow open water wetlands (includes open water areas less than two metres deep with wetland characteristics).

### **Conditions**

These conditions are established for the sole purpose of the Decision Statement issued under the *Canadian Environmental Assessment Act, 2012*. They do not relieve the Proponent from any obligation to comply with other legislative or other legal requirements of the federal, provincial, or local governments. Nothing in this Decision Statement shall be construed as reducing, increasing, or otherwise affecting what may be required of the Proponent to comply with all applicable legislative or legal requirements.

## **2 General conditions**

- 2.1 The Proponent shall ensure that its actions in meeting the conditions set out in this Decision Statement are considered in a careful and precautionary manner, promote sustainable development, are informed by the best information and knowledge available at the time the Proponent takes action, including community and Indigenous traditional knowledge, are based on methods and models that are recognized by standard-setting bodies, are undertaken by qualified individuals, and have applied the best available economically achievable technologies.
- 2.2 The Proponent shall, where consultation is a requirement of a condition set out in this Decision Statement:
  - 2.2.1 provide a written notice of the opportunity for the party or parties being consulted to present their views and information on the subject of the consultation;
  - 2.2.2 provide sufficient information on the scope and the subject matter of the consultation and a reasonable period of time to permit the party or parties being consulted to prepare their views and information;
  - 2.2.3 provide a full and impartial consideration of any views and information presented by the party or parties being consulted on the subject matter of the consultation; and
  - 2.2.4 advise in a timely manner the party or parties being consulted on how their views and information have been considered by the Proponent.
- 2.3 The Proponent shall, where consultation with Indigenous groups is a requirement of a condition set out in this Decision Statement, communicate with each Indigenous group with respect to the manner by which to satisfy the consultation requirements referred to in condition 2.2, including methods of notification, the type of information, and the period of time to be provided when seeking input, the process for full and impartial consideration of any views and information presented on the subject of the consultation, and the means by which Indigenous groups will be informed of how their views and information have been considered by the Proponent.
- 2.4 The Proponent shall, where a follow-up program is a requirement of a condition set out in this Decision Statement, determine, as part of the development of the follow-up program and in consultation with Indigenous groups and relevant authorities, the following information, for each follow-up program:
  - 2.4.1 the methodology, location, frequency, timing, and duration of monitoring associated with the follow-up program as well as the scope, content, and frequency of reporting of the follow-up results;
  - 2.4.2 the levels of environmental change relative to established baseline conditions that would require the Proponent to implement modified or additional mitigation measure(s), including instances where the Proponent may require Designated Project activities to be stopped; and
  - 2.4.3 the range of technically and economically feasible mitigation measures to be implemented by the Proponent if monitoring conducted as part of the follow-up program shows that the levels of environmental change referred to in condition 2.4.2 have been reached or exceeded.

- 2.5 The Proponent shall submit the information referred to in condition 2.4 to the Agency prior to the implementation of a follow-up program. The Proponent shall update that information in consultation with Indigenous groups and relevant authorities during the implementation of the follow-up program, and shall provide the updated information to the Agency, Indigenous groups, and relevant authorities within 30 days of the information being updated.
- 2.6 The Proponent shall, where a follow-up program is a requirement of a condition set out in this Decision Statement:
- 2.6.1 conduct the follow-up program according to the information determined pursuant to condition 2.4;
  - 2.6.2 undertake monitoring and analysis to verify the accuracy of the environmental assessment as it pertains to the particular condition and/or to determine the effectiveness of any mitigation measure(s);
  - 2.6.3 determine whether modified or additional mitigation measures are required based on the monitoring and analysis undertaken pursuant to condition 2.6.2; and
  - 2.6.4 if modified or additional mitigation measures are required pursuant to condition 2.6.3, develop and implement the modified or additional mitigation measures in a timely manner and monitor them pursuant to condition 2.6.2.
- 2.7 Where consultation with Indigenous groups is a requirement of a follow-up program, the Proponent shall discuss with each Indigenous group opportunities for the participation of that Indigenous group in the implementation of the follow-up program, including the analysis of the follow-up results and whether modified or additional mitigation measures are required, as set out in condition 2.6.
- 2.8 The Proponent shall, commencing in the reporting year during which the Proponent begins the implementation of the conditions set out in this Decision Statement, prepare an annual report that sets out:
- 2.8.1 the activities undertaken in the reporting year to comply with each of the conditions set out in this Decision Statement;
  - 2.8.2 how the Proponent complied with condition 2.1;
  - 2.8.3 for conditions set out in this Decision Statement for which consultation is a requirement, how the Proponent considered any views and information that the Proponent received during or as a result of the consultation;
  - 2.8.4 the information referred to in conditions 2.4 and 2.5 for each follow-up program;
  - 2.8.5 the results of the follow-up program requirements identified in conditions 3.12, 4.3, 6.11, 6.12, and 6.13; and
  - 2.8.6 any modified or additional mitigation measures implemented or proposed to be implemented by the Proponent, as determined under condition 2.6.
- 2.9 The Proponent shall submit to the Agency the annual report referred to in condition 2.8, including an executive summary in both official languages, no later than June 30 following the reporting year to which the annual report applies.

- 2.10 The Proponent shall publish on the Internet, or any medium which is widely publicly available, the annual reports and the executive summaries referred to in conditions 2.8 and 2.9, the offsetting plan(s) referred to in condition 3.9, the corrective actions related to exposure to noise and dust referred to in condition 6.3, the reports related to accidents and malfunctions referred to in conditions 8.4.3 and 8.4.4, the communication plan referred to in condition 8.5, the implementation schedule referred to in condition 9.1, and any update(s) or revision(s) to the above documents, upon submission of these documents to the parties referenced in the respective conditions. The Proponent shall keep these documents publicly available for 25 years following publication. The Proponent shall notify the Agency and Indigenous groups of the availability of these documents upon publication.
- 2.11 The Proponent shall notify the Agency and Indigenous groups in writing no later than 60 days after the day on which there is a transfer of ownership, care, control, or management of the Designated Project in whole or in part.
- 2.12 The Proponent shall consult with Indigenous groups prior to initiating any material change(s) to the Designated Project that may result in adverse environmental effects, and shall notify the Agency in writing no later than 60 days prior to initiating the change(s).
- 2.13 In notifying the Agency pursuant to condition 2.12, the Proponent shall provide the Agency with a description of the potential adverse environmental effects of the change(s) to the Designated Project, the measures proposed to be implemented by the Proponent to mitigate adverse environmental effects, and the results of the consultation with Indigenous groups.

### **3 Fish and fish habitat**

- 3.1 The Proponent shall implement erosion and sedimentation control measures within the Designated Project area during construction and operation to avoid causing serious harm to fish.
- 3.2 The Proponent shall construct watercourse crossings in a manner that maintains fish habitat and fish passage during construction and operation.
- 3.3 The Proponent shall conduct, prior to the start of in-water construction and in consultation with Fisheries and Oceans Canada, a survey of mapleleaf mussel (*Quadrula quadrula*) in areas of potential mapleleaf mussel habitat that may be affected by the Designated Project in accordance with Fisheries and Oceans Canada's *Protocol for the Detection and Relocation of Freshwater Mussel Species at Risk in Ontario – Great Lakes Area*. The Proponent shall adhere to the protocol for detection and relocation if the species is found by the Proponent during the survey.
- 3.4 The Proponent shall not conduct in-water construction during restricted activity timing windows for the protection of fish and fish habitat identified for the Designated Project area in Fisheries and Oceans Canada's *Manitoba Restricted Activity Timing Windows for the Protection of Fish and Fish Habitat*, unless otherwise authorized by Fisheries and Oceans Canada.
- 3.5 The Proponent shall maintain a buffer of undisturbed vegetation between the all-season road and all waterbodies and wetlands which shall be at a minimum equal to 10 metres plus 1.5 times the slope gradient, or 30 metres, whichever is greater, except at watercourse crossing sites. The Proponent shall take into account the *Manitoba Stream Crossing Guidelines for the Protection of Fish and Fish Habitat* when establishing the buffer distances.

- 3.6 The Proponent shall not undertake vehicle, machinery, and equipment cleaning, fuelling, and maintenance and shall not store substances with the potential to cause harmful effects to the receiving environment within 100 metres of all waterbodies and wetlands.
- 3.7 The Proponent shall assess, prior to construction, acid generation potential and metal leaching potential along the all-season road right-of-way and temporary access routes and at proposed quarry sites and borrow areas using validated assessment methods and quality assurances and quality control procedures. The Proponent shall not use any material that has the potential to cause acid generation or metal leaching for its construction or operation activities.
- 3.8 The Proponent shall locate quarries associated with the Designated Project on the west side of the all-season road within the Asatiwisipe Aki Land Use Planning Area, unless the Proponent can demonstrate that aggregate volumes on the west side of the all-season road are not sufficient for the construction or operation of the Designated Project. The Proponent shall consult Indigenous groups prior to considering any quarry on the east side of the all-season road this planning area, and shall inform the Agency at least 30 days prior to locating such quarry.
- 3.9 The Proponent shall develop, to the satisfaction of Fisheries and Oceans Canada and in consultation with Indigenous groups, any offsetting plan(s) related to any residual serious harm to fish associated with the carrying out of the Designated Project. The Proponent shall submit any approved offsetting plan(s) to the Agency prior to implementation.
- 3.10 For any fish habitat offsetting measure(s) proposed in any offsetting plan(s) referred to in condition 3.9, and prior to submitting the offsetting plan(s) to Fisheries and Oceans Canada, the Proponent shall determine, in consultation with Indigenous groups and relevant authorities, whether the implementation of the proposed fish habitat offsetting measure(s) is likely to cause adverse environmental effects:
  - 3.10.1 on migratory birds and their habitats;
  - 3.10.2 on terrestrial species and their habitats;
  - 3.10.3 on listed species at risk and their habitats;
  - 3.10.4 on the current use of lands and resources for traditional purposes;
  - 3.10.5 on flow rates, water depths, or water widths that may adversely affect the passage of a vessel, including a vessel used by Indigenous Peoples in the context of their current use of lands and resources for traditional purposes;
  - 3.10.6 on physical and cultural heritage and structures, sites, or things of historical, archaeological, paleontological, or architectural significance; and
  - 3.10.7 from potential sources of contamination from construction and operation activities in the receiving environment, including from the use of de-icing agents and from bridge washing activities.
- 3.11 The Proponent shall, if there are adverse environmental effects on any of the elements set out in conditions 3.10.1 to 3.10.7, develop and implement, following consultation with Indigenous groups and relevant authorities, measures to mitigate those effects.

3.12 The Proponent shall develop, in consultation with Indigenous groups, Fisheries and Oceans Canada, and other relevant authorities, a follow-up program to verify the accuracy of the environmental assessment and the effectiveness of the mitigation measures as it pertains to fish and fish habitat. The Proponent shall develop the follow-up program prior to construction. As part of the follow-up program, the Proponent shall:

3.12.1 at sites located upstream, at, and downstream of in-water construction activities in all fish-bearing waterbodies to be affected by the Designated Project, determine water quality and turbidity, including total suspended sediments, pH, water temperature, and dissolved oxygen levels prior to conducting in-water construction, and monitor changes in water quality and turbidity, including total suspended sediments, pH, water temperature, and dissolved oxygen levels during and after conducting in-water construction; and

3.12.2 monitor survival and growth of mapleleaf mussel (*Quadrula quadrula*) relocated pursuant to condition 3.3, in accordance with Fisheries and Oceans Canada's *Protocol for the Detection and Relocation of Freshwater Mussel Species at Risk in Ontario – Great Lakes Area*.

#### **4 Migratory birds**

4.1 The Proponent shall carry out the Designated Project in a manner that protects migratory birds and avoids harming, killing, or disturbing migratory birds or destroying, disturbing, or taking their nests or eggs. In this regard, the Proponent shall take into account Environment and Climate Change Canada's *Avoidance Guidelines*. The Proponent's actions in applying the *Avoidance Guidelines* shall be in compliance with the *Migratory Birds Convention Act, 1994* and with the *Species at Risk Act*.

4.2 The Proponent shall control lighting required during construction, including direction, timing, intensity, and glare, to avoid effects on migratory birds, while meeting operational health and safety requirements.

4.3 The Proponent shall develop, prior to construction and in consultation with Indigenous groups and relevant authorities, a follow-up program to determine the effectiveness of the mitigation measures to avoid harm to migratory birds, their eggs, and nests, including the mitigation measures used to comply with conditions 4.1 and 4.2. The Proponent shall implement the follow-up program during construction.

#### **5 Human health and socio-economic conditions**

5.1 The Proponent shall implement measures to reduce emissions of fugitive dust during construction from components and activities associated with the Designated Project, including establishing speed limits on all access roads associated with the Designated Project and requiring all employees associated with the Designated Project to abide by these speed limits.

5.2 The Proponent shall establish, in consultation with Indigenous groups, and maintain, during construction, alternate access to traplines if existing access is adversely affected by the Designated Project.

## **6 Current use of lands and resources for traditional purposes**

- 6.1 The Proponent shall develop, in consultation with Indigenous groups and Berens River Northern Affairs Community, a communication plan to share information related to the Designated Project with Indigenous groups and Berens River Northern Affairs Community. The Proponent shall develop the communication plan prior to construction and shall implement and maintain it up to date during construction and operation. The communication plan shall include:
- 6.1.1 the types of construction and operation activities (including blasting and road maintenance activities) requiring notification to Indigenous groups and Berens River Northern Affairs Community and the timing of these notifications, which shall be at a minimum 30 days before the start of each activity and which shall include the location and scheduling of each activity;
  - 6.1.2 how and when information related to the location, timing, duration, and levels of noise generated by activities associated with the Designated Project will be communicated to Indigenous groups and Berens River Northern Affairs Community;
  - 6.1.3 how and when information related to temporary and permanent restrictions on navigation during construction and operation, including the location and timing of these restrictions and the availability of alternate routes, including portage routes, referred to in condition 6.2, will be communicated to Indigenous groups and Berens River Northern Affairs Community; and
  - 6.1.4 ways for Indigenous groups and Berens River Northern Affairs Community to provide feedback to the Proponent about adverse environmental effects related to noise or navigation caused by the Designated Project and ways for the Proponent to respond in a timely manner to the feedback received.
- 6.2 The Proponent shall maintain, in consultation with Indigenous groups and Transport Canada, existing navigation routes on all navigable watercourses affected by the Designated Project during construction and operation, including maintaining alternate portage routes.
- 6.3 The Proponent shall develop, prior to construction and in consultation with Indigenous groups, and implement, during construction, a protocol for receiving complaints related to the exposure to noise or dust from the Designated Project. The Proponent shall respond to any noise or dust complaint(s) within 48 hours of the complaint being received and shall implement corrective actions to reduce exposure to noise and dust in a timely manner.
- 6.4 The Proponent shall not conduct vegetation clearing during calving periods for moose (*Alces alces*) and boreal woodland caribou (*Rangifer tarandus caribou*) in areas where calving occurs and when moose or caribou are present.
- 6.5 The Proponent shall maintain existing water levels of wetlands located within the Designated Project area.
- 6.6 The Proponent shall install and maintain, during construction and operation, ramps for snowmobiles to cross the all-season road and all access roads associated with the Designated Project. The Proponent shall determine, prior to construction, the locations of ramps in consultation with Indigenous groups.

- 6.7 The Proponent shall provide roadside pull-off areas along the all-season road only when required for safety or operational reasons.
- 6.8 The Proponent shall block access to temporary Designated Project components when the Designated Project enters the operation phase.
- 6.9 The Proponent shall, in consultation with Indigenous groups, undertake progressive reclamation of all areas disturbed by the Designated Project. The Proponent shall use native vegetation when conducting revegetation as part of progressive reclamation.
- 6.10 The Proponent shall, in consultation with Indigenous groups and relevant authorities, reclaim the winter road between Berens River First Nation and Poplar River First Nation. In doing so, the Proponent shall:
  - 6.10.1 use native vegetation to match adjacent vegetation species composition, structure, and cover; and
  - 6.10.2 incorporate landscaping design features to reduce sight lines and impede movement of caribou predators.
- 6.11 The Proponent shall, prior to construction and in consultation with Indigenous groups and relevant authorities, develop a follow-up program to assess the effectiveness of the reclamation activities referred to in conditions 6.9 and 6.10, including the establishment of native vegetation, tree regeneration, and composition and abundance of invasive and non-invasive species. The Proponent shall implement the follow-up program two years following the start of reclamation.
- 6.12 The Proponent shall develop, prior to construction and in consultation with Indigenous groups, a follow-up program to verify the accuracy of the environmental assessment as it pertains to the effects of changes caused by the Designated Project to the environment on current fishing, harvesting, hunting, or trapping activities for commercial and traditional purposes by Indigenous Peoples, including hunting for moose (*Alces alces*). The Proponent shall implement the follow-up program during construction and at least the first ten years of operation.
- 6.13 The Proponent shall develop, prior to construction and in consultation with Indigenous groups, a follow-up program to verify the accuracy of the environmental assessment and to determine the effectiveness of mitigation measures as it pertains to navigation at watercourse crossings. The Proponent shall implement the follow-up program during construction and the first five years of operation.
- 6.14 The Proponent shall provide Indigenous groups and Berens River Northern Affairs Community with the implementation schedule, updates, or revisions to the implementation schedule referred to in conditions 9.1 and 9.2 at the same time the Proponent provides these documents to the Agency.

**7 Physical and cultural heritage and structures, sites, or things of historical, archaeological, paleontological, or architectural significance**

- 7.1 The Proponent shall, prior to construction and in consultation with Indigenous groups, provide access to Indigenous groups to the Designated Project area for the purpose of conducting ceremonies, to the extent that such access is safe.

- 7.2 The Proponent shall provide to all employees and contractors associated with the Designated Project procedures to follow if a structure, site, or thing of historical, archaeological, paleontological, or architectural significance is discovered within the Designated Project area by the Proponent or brought to the attention of the Proponent by an Indigenous group or another party during construction, and shall require all employees and contractors associated with the Designated Project to abide by these procedures.
- 7.3 The Proponent shall, for any previously unidentified structures, sites, or things of historical, archaeological, paleontological, or architectural significance discovered within the Designated Project area by the Proponent or brought to the attention of the Proponent by an Indigenous group or another party during construction:
- 7.3.1 immediately halt work at the location of the discovery;
  - 7.3.2 delineate an area of at least 30 metres around the discovery as a no-work zone. The no-work requirement shall not apply to action(s) required to be undertaken to protect the integrity of the discovery;
  - 7.3.3 have a qualified individual as it pertains to the requirements of Manitoba's *Heritage Resources Act* conduct an assessment at the location of the discovery;
  - 7.3.4 inform Indigenous groups within 24 hours of the discovery, and allow for monitoring by Indigenous groups during work related to the discovery; and
  - 7.3.5 comply, in consultation with Indigenous groups and relevant authorities, with all applicable legislative or legal requirements and associated regulations and protocols respecting the discovery, recording, transferring, and safekeeping of previously unidentified structures, sites, or things of historical, archaeological, paleontological, or architectural significance.

## **8 Accidents and malfunctions**

- 8.1 The Proponent shall take all reasonable measures to prevent accidents and malfunctions that may result in adverse environmental effects.
- 8.2 The Proponent shall, prior to construction, consult with Indigenous groups and relevant authorities on the measures to be implemented to prevent accidents and malfunctions.
- 8.3 The Proponent shall, prior to construction and in consultation with Indigenous groups and relevant authorities, develop an emergency response plan in relation to the Designated Project.
- 8.4 In the event of an accident or malfunction with the potential to cause adverse environmental effects, the Proponent shall implement the emergency response plan referred to in condition 8.3 and shall:
- 8.4.1 notify Indigenous groups and relevant authorities of the accident or malfunction as soon as possible, and notify the Agency in writing;
  - 8.4.2 implement immediate measures to mitigate any adverse environmental effects caused by the accident or malfunction;

- 8.4.3 submit a written report to the Agency no later than 30 days after the day on which the accident or malfunction took place. The written report shall include:
  - 8.4.3.1 a description of the accident or malfunction and of its adverse environmental effects;
  - 8.4.3.2 the measures that were taken by the Proponent to mitigate the adverse environmental effects caused by the accident or malfunction;
  - 8.4.3.3 any view(s) received from Indigenous groups and relevant authorities with respect to the accident or malfunction, its adverse environmental effects, and the measures taken by the Proponent to mitigate these adverse environmental effects;
  - 8.4.3.4 a description of any residual adverse environmental effect(s) and any modified or additional measure(s) required by the Proponent to mitigate residual adverse environmental effects;
  - 8.4.3.5 details concerning the implementation of the emergency response plan referred to in condition 8.3; and
- 8.4.4 submit a written report to the Agency no later than 90 days after the day on which the accident or malfunction took place, on the changes made to avoid a subsequent occurrence of the accident or malfunction and on the implementation of any modified or additional measure(s) to mitigate and monitor residual adverse environmental effects and to carry out any required progressive reclamation, taking into account the information submitted in the written report pursuant to condition 8.4.3.
- 8.5 The Proponent shall develop, prior to construction, a communication plan in consultation with Indigenous groups. The Proponent shall implement and maintain the communication plan up to date during construction and operation. The plan shall include:
  - 8.5.1 the types of accidents and malfunctions requiring the Proponent to notify the respective Indigenous groups;
  - 8.5.2 the manner by which Indigenous groups shall be notified by the Proponent of an accident or malfunction and of any opportunities for the Indigenous groups to assist in the response to the accident or malfunction; and
  - 8.5.3 the contact information of the representatives of the Proponent that the Indigenous groups may contact and of the representatives of the respective Indigenous groups to which the Proponent provides notification.

## **9 Implementation schedule**

- 9.1 The Proponent shall submit an implementation schedule for conditions contained in this Decision Statement to the Agency at least 30 days prior to the start of construction. The implementation schedule shall indicate the commencement and completion dates for each activity relating to conditions set out in this Decision Statement.
- 9.2 The Proponent shall submit an update to the implementation schedule referred to in condition 9.1 in writing to the Agency every two years on or before June 30, until completion of the activities.

9.3 The Proponent shall provide the Agency with a revised implementation schedule if any material change(s) occur from the initial schedule referred to in condition 9.1 or any subsequent update(s) referred to in condition 9.2. The Proponent shall provide the revised implementation schedule at least 30 days prior to the implementation of the change.

**10 Record keeping**

10.1 The Proponent shall maintain all records required to demonstrate compliance with the conditions set out in this Decision Statement. The Proponent shall provide the aforementioned records to the Agency upon demand within a timeframe specified by the Agency.

10.2 The Proponent shall retain all records referred to in condition 10.1 at a facility in Canada. The records shall be retained and made available during construction and operation of the Designated Project. The Proponent shall notify the Agency at least 30 days prior to any change to the physical location of the facility where the records are retained, and shall provide the address of the new location.

**Issuance**

This Decision Statement is issued in Ottawa, Ontario by:

<Original signed by>

June 27, 2017

\_\_\_\_\_  
**The Honourable Catherine McKenna**  
Minister of the Environment

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Date