

Minister of Infrastructure  
and Communities



Ministre de l'Infrastructure  
et des Collectivités

Ottawa, Canada K1P 0B6

The Honourable Jeff Wharton, M.L.A.  
Minister of Municipal Relations  
Government of Manitoba  
Room 301, Legislative Building  
450 Broadway  
Winnipeg, Manitoba R3C 0V8

AUG 13 2019

Dear Minister:

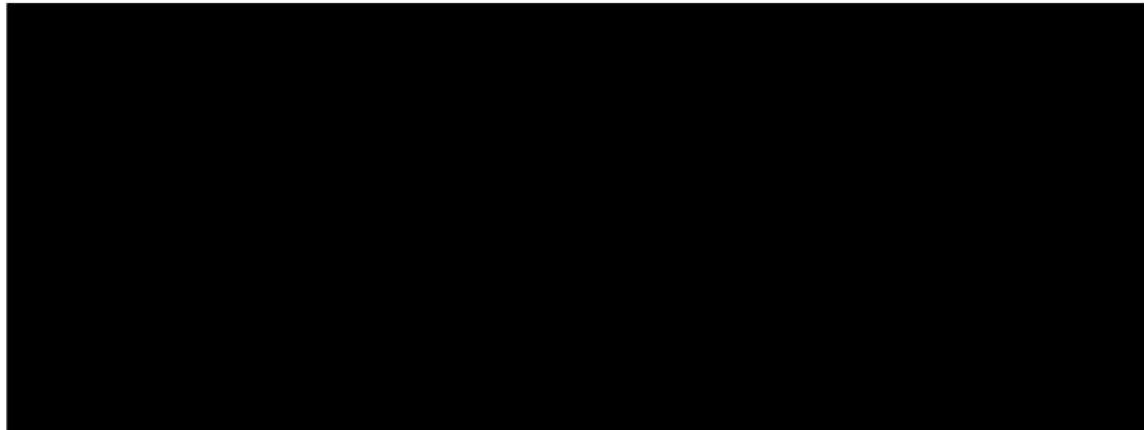
I would like to provide you with an update regarding the Lake Manitoba / Lake St. Martin Outlet Channels Project (the Project) under Infrastructure Canada's Disaster Mitigation and Adaptation Fund (DMAF), specifically regarding Infrastructure Canada's proposed approach for the signature of the Contribution Agreement.

On May 31, 2018, my predecessor, the Honourable Amarjeet Sohi, sent a letter to your predecessor, the Honourable Eileen Clark, to inform her that the Project was approved in principle along with the specific conditions, including the signature of a contribution agreement, prior to the Government of Canada reimbursing Manitoba for any eligible expenses that have been incurred (Annex A).

Our respective officials have been working collaboratively to finalize the contribution agreement for the Project in advance of our respective signatures. I understand that Manitoba is seeking to expedite the signature of this contribution agreement to submit claims for the Project to my department and be reimbursed for incurred eligible expenses. However, delays in negotiations have been encountered, mainly due to the court proceeding against the Province of Manitoba and Canada related to the consultation process with First Nations and the federal environmental assessment that is currently underway under the *Canadian Environmental Assessment Act, 2012*. This assessment will need to be completed and all related requirements will need to be met, including Indigenous consultation, prior to the start of construction. The Project is also conditional upon Canada being satisfied that the responsibility of the federal authority and/or responsible authority under the *Canadian Environmental Assessment Act, 2012* or other applicable legislation in force, and other applicable agreements between Canada and Aboriginal groups are met and continue to be met.

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This proposed approach seeks to reduce our respective governments' legal, financial and reputational risks associated with the Project while also accommodating Manitoba's request for an expedited reimbursement process for the non-capital expenses for this Project.

Please note that, prior to Canada paying any claims for the Project, a greenhouse gas emissions assessment must be completed to Canada's satisfaction in accordance with the Climate Lens General Guidance and submitted to Canada.

I note that Manitoba's Project's application originally indicated that construction for this Project was planned to get underway in December 2018 and be completed in 2025. As your Project was approved in principle on the basis of this information, please notify my officials, in writing, with an updated expected start date and completion date.

Thank you for your collaboration and I look forward to continuing to work together with respect to this Project in a timely fashion.

Yours sincerely,

The Honourable François-Philippe Champagne, P.C., M.P.  
Minister of Infrastructure and Communities

Enclosure: 1



The Honourable Eileen Clarke, M.L.A.  
Minister of Indigenous and Municipal Relations  
Government of Manitoba  
Room 301, Legislative Building  
450 Broadway  
Winnipeg, Manitoba R3C 0V8

**MAY 31 2018**

Dear Minister:

I am pleased to inform you of the approval-in-principle of the Lake Manitoba/Lake St. Martin Outlet Channels Project. This approval is given following the successful review of your Project under the terms and conditions of the Disaster Mitigation and Adaptation Fund (DMAF). Approval of the Project does not form part of the Operation Return Home (ORH) resettlement mandate and is distinct and separate from ORH and any related litigation.

Federal funding of the Project from the DMAF will be up to 50 percent of the total eligible project costs, to a maximum federal contribution of \$247,500,000 under this program. Federal funding from all sources cannot exceed 50 percent of the project's total eligible costs.

With this approval-in-principle, eligible costs as determined under the terms and conditions of the DMAF and incurred as of the date of this letter will be eligible for federal reimbursement subject to the timely execution of a contribution agreement. If a contribution agreement is not signed, the Government of Canada will not reimburse any costs incurred. Once signed, the contribution agreement represents the final federal approval of the Project.

If there is a change to the scope of the Project, please contact Infrastructure Canada as soon as possible, as any scope changes require approval by Canada.

As we move to the contribution agreement stage, the following conditions will also apply:

- Regardless of the outcome of any of the project tendering processes, all ineligible costs, cost increases or overruns, and any costs related to the ongoing operation and maintenance of the Project, will be the responsibility of Manitoba.

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- Expenditures incurred prior to the date of this letter, as well as any and all expenditures related to contracts signed prior to the date of this letter, are ineligible for reimbursement.
- Manitoba will satisfy the Government of Canada with respect to the competitive and transparent tendering process to be established.
- Manitoba and the Government of Canada will work to complete the negotiation of a contribution agreement in a timely manner. To this end, Manitoba will provide cash flows broken down by fiscal year for all project components; a clear indication of how the Project will contribute to one or more of the program outcomes and benefits; as well as the indicators that will be used to report on the outcomes and benefits at the project's substantial completion.
- Prior to signing a contribution agreement, Manitoba will provide the Government of Canada evidence that all project funding, other than the federal contribution under the DMAF, has been secured.
- Manitoba agrees to work with Infrastructure Canada to jointly communicate Canada's funding commitment as soon as possible and to invite Canada to participate in future media announcements or events related to the project's progress and, where appropriate, to produce and erect temporary signage at each of the project sites acknowledging the federal government's contribution to the Project in accordance with the signage guidelines to be provided by the Government of Canada.
- Manitoba must complete the land acquisition process for the Lake Manitoba project before any funding for construction can be provided by the Government of Canada.
- Please note that approval of the Project is conditional upon Canada being satisfied that the responsibility of the federal authority and/or responsible authority under the *Canadian Environmental Assessment Act, 2012* or other applicable legislation in force, and other applicable agreements between Canada and Aboriginal groups are met and continue to be met. The *Canadian Environmental Assessment Act, 2012* applies to the Project. A federal environmental assessment is currently underway. The review will need to be completed and all related requirements will need to be met, prior to the start of construction.
- Canada's funding for a project is also conditional upon Canada being satisfied that its obligations with respect to the legal duty to consult and accommodate Aboriginal groups, if applicable, are met. Based on the information provided, the Government of Canada has a duty to consult and may have a duty to accommodate Aboriginal groups for the Project under section 35 of the *Constitution Act, 1982*. Manitoba will ensure that site work and construction of the Project does not begin prior to confirmation by Infrastructure Canada that these requirements have been met.

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- A greenhouse gas emissions assessment must be completed to Canada's satisfaction in accordance with the *Climate Lens General Guidance* and submitted to Canada, prior to Canada paying any claims for the project.
- Manitoba will report on community employment benefits provided to at least three of the federal target groups (apprentices, Indigenous peoples, women, persons with disabilities, veterans, youth, new Canadians, or small- medium-sized enterprises and social enterprises); and
- Manitoba is also encouraged to consider the economic development and employment opportunities of the local and affected First Nations in the construction of the project.

I note that the project application you have submitted specifies that project construction is planned to get underway in December 2018 and be completed in 2025. As your Project is being approved in principle on the basis of this information, please notify Infrastructure Canada officials, in writing, should you expect delays of more than six months in either the start or completion date.

Thank you for your collaboration to date. I look forward to continuing to work together to conclude a contribution agreement for this project in a timely fashion.

Yours sincerely,



Amarjeet Sohi, P.C., M.P.

c.c. The Honourable Jane Philpott, P.C., M.P.  
Minister of Indigenous Services

**Page(s) 6 to27  
are withheld  
pursuant to paragraph  
14(a) & 21(1)(b)  
of the *Access to Information Act***

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**La/les page(s) 6 à 27  
Font l'objet d'une exception totale  
conformément aux dispositions de paragraphe  
14(a) & 21(1)(b)  
de la *loi sur l'accès à l'information***



Our file / Notre référence

DMAF-52616

July 6, 2018

Karlene Debance  
Assistant Deputy Minister  
Manitoba Strategic Infrastructure Secretariat  
1140-363 Broadway Ave.  
Winnipeg, MB  
R3C 3N9  
[REDACTED]

[Sent via email]

**Subject:** Lake Manitoba Lake St. Martin Outlet Channels – Requirements under the *Canadian Environmental Assessment Act, 2012* and the Duty to Consult with Aboriginal Peoples

Dear Ms. Debance,

In consideration of financial support and following the Ministerial approval-in-principle (indicated by a letter dated June 1, 2018) of the Lake Manitoba Lake St. Martin Outlet Channels Project (the Project) under the Disaster Mitigation and Adaptation Fund (DMAF). Infrastructure Canada (INFC) has reviewed all of the information provided to date on the Project by Manitoba Infrastructure (MI). Using this information, INFC assessed possible requirements under the *Canadian Environmental Assessment Act, 2012* (CEAA 2012) and determined Canada's obligations for Aboriginal consultation, including the identification of next steps.

#### ***Canadian Environmental Assessment Act, 2012 Requirements***

On March 9, 2018, the Canadian Environmental Assessment Agency (CEA Agency) determined that a federal Environmental Assessment (EA) is required for the Project. The Canadian Environmental Assessment Agency is the Federal Authority for this project and is responsible for conducting the EA process, which is currently underway. INFC is part of the Federal Review Team that provides advice and recommendations to the Agency.

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## **Aboriginal Consultation Obligations**

Following INFC's review of the information provided to date, and as indicated in the Ministerial approval-in-principle letter dated June 1, 2018, INFC has concluded that there is a legal duty to consult with Aboriginal peoples for this Project.

INFC's intent is to work with project proponents to engage and consult with Aboriginal groups that may have a potential interest in the project they propose. As this project is undergoing a federal EA being led by the CEA Agency, and as a member of the Federal Review Team, INFC intends to rely to the extent possible on the Aboriginal consultation process being led by the CEA Agency and will collaborate appropriately to ensure that the Crown's Duty to consult has been met.

INFC therefore requests that MI consult with the following Aboriginal groups, identified in the Canadian Environmental Assessment Agency in Project's Environmental Impact Study Guidelines and informs the Aboriginal groups that Infrastructure Canada will be contributing to the funding of the project. INFC has provided the contact information for the identified Aboriginal groups, this information is found in Annex 1, attached to this letter.

- Manitoba Metis Federation
- Dauphin River First Nation
- Lake St. Martin First Nation
- Little Saskatchewan First Nation
- Pinaymootang First Nation
- O-Chi-Chak-Ko-Sipi First Nation
- Ebb and Flow First Nation
- Lake Manitoba First Nation
- Skownan First Nation
- Peguis First Nation
- Sandy Bay First Nation
- Fisher River Cree Nation
- Kinonjeoshtegon First Nation
- Bloodvein First Nation
- Norway House Cree Nation
- Berens River First Nation
- Hollow Water First Nation
- Brokenhead Ojibway Nation
- Sagkeeng First Nation
- Black River First Nation
- Poplar River First Nation
- Misipawistic Cree Nation

INFC will require a summary of communications, including any issues or concerns that may be raised by respective Aboriginal groups and an indication of how MI has addressed or proposes to address those issues or concerns.



Should MI consider future changes to the nature, scope, design or location of the Project that differ from that which is described above, it is the responsibility of MI to immediately notify INFC. The department may then reassess the Project in accordance with the requirements under CEEA 2012 and whether the change to the Project impacts the duty to consult, which would also potentially result in a corresponding amendment to the agreement between MI and INFC for the Project.

Should you have any comments or questions, please contact Deborah Campbell by email at [deborah.campbell@canada.ca](mailto:deborah.campbell@canada.ca) (cc: [infc.aboriginalconsultenv-consultautochtonesenv.infc@canada.ca](mailto:infc.aboriginalconsultenv-consultautochtonesenv.infc@canada.ca)) or by phone at 613-948-9465.

Sincerely,



Julie-Anne Marcoux  
Section Leader  
Aboriginal Consultation and Environmental Services  
Infrastructure Canada

cc:

- Christian Judd, Manager, INFC ([christian.judd@canada.ca](mailto:christian.judd@canada.ca))
- Julien Lozier, Analyst, INFC ([julien.lozier@canada.ca](mailto:julien.lozier@canada.ca))
- Annie Geoffroy, Director, INFC ([annie.geoffroy@canada.ca](mailto:annie.geoffroy@canada.ca))
- Eric Landry, Director General, INFC ([eric.landry@canada.ca](mailto:eric.landry@canada.ca))
- Shawn Adams, Senior Infrastructure Project Manager, MSIS ([Shawn.Adams@gov.mb.ca](mailto:Shawn.Adams@gov.mb.ca))
- Tara Pratt, Director, MSIS ([tara.pratt@gov.mb.ca](mailto:tara.pratt@gov.mb.ca))
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## **Annex 1: Contact Information for Aboriginal Communities Identified**

President David Chartrand  
Manitoba Métis Federation  
300-150 Henry Avenue  
Winnipeg, MB  
R3B 0J7  
Tel: 204-586-8474  
Fax: 204-947-1816

Chief John Stagg  
Dauphin River First Nation  
PO Box 58  
Gypsumville, MB  
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Tel: 204-659-5370  
Fax: 204-659-4458

Chief Adrian Sinclair  
Lake St. Martin First Nation  
550 Berry St.  
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Tel: 204-948-1119

Chief Hector Shorting  
Little Saskatchewan First Nation  
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Tel: 204-659-4584  
Fax: 204-659-2071

Chief Garnet Woodhouse  
Pinaymootang First Nation  
General Delivery  
Fairford, MB  
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Tel: 204-659-5705  
Fax: 204-659-2068

Chief Stephanie Blackbird  
O-Chi-Chak-Ko-Sipi First Nation  
PO Box 103  
Crane River, MB  
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Tel: 204-732-2490  
Fax: 204-732-2596

Chief Wayne Desjarlais  
Ebb and Flow First Nation  
PO Box 159  
Ebb and Flow, MB  
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Tel: 204-448-2134

Chief Cornell McLean  
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Lake Manitoba First Nation, MB  
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Fax: 204-768-3036

Chief Cameron Catcheway  
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Chief Glenn Hudson  
Peguis First Nation  
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Peguis Reserve, MB  
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Fax: 204-645-2360

Chief Lance Roulette  
Sandy Bay First Nation  
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Marius, MB  
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Tel : 204-843-2462

Chief David Crate  
Fisher River Cree Nation  
PO Box 367  
Koostatak, MB  
R0C 1S0  
Tel: 204-645-2171

Chief Dave Traverse  
Kinonjeoshtegon First Nation  
PO Box 210  
Dallas, MB  
R0C 0S0  
Tel: 204-394-2255  
Fax: 204-394-2305

Chief Roland Hamilton  
Bloodvein First Nation  
General Delivery  
Bloodvein, MB  
R0C 0J0  
Tel: 204-395-2148

Chief Larson Anderson  
Norway House Cree Nation  
PO Box 250  
Norway House, MB  
R0B 1B0  
Tel: 204-359-6786

Chief Hartley Everett  
Berens River First Nation  
PO Box 131  
Berens River, MB  
R0B 0A0  
Tel: 204-382-2161

Chief Larry Barker  
Hollow Water First Nation  
PO Box 2561  
Wanipigow, MB  
R0E 2E0  
Tel: 204-363-7278

Chief Deborah Smith  
Brokenhead Ojibway Nation  
1 Anishinabe Way  
PO Box 180  
Scanterbury, MB  
R0E 1W0  
Tel: 204-766-2494  
Fax: 204-766-2306

Chief Derrick Henderson  
Sagkeeng First Nation  
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Fort Alexander, MB  
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Tel: 204-367-2287  
Fax: 204-367-4315

Chief Sheldon Kent  
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Fax: 204-367-2000

Chief Vera Mitchell  
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Negginan, MB  
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Tel: 204-244-2267  
Fax: 204-244-2690

Misipawistik Cree Nation  
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Chief Norman Bone  
Keeseekoowenin Ojibway Nation  
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