



Supplementary Information

Presentation from Manitoba Metis Federation

In the Matter of the

Whiteshell Laboratories

Application to renew the Nuclear Research and Test Establishment Decommissioning Licence for the Whiteshell Laboratories site for a period of ten years

Commission Public Hearing

October 2-3, 2019

Renseignements supplémentaires

Présentation de la Fédération des Métis du Manitoba

À l'égard de

Laboratoires de Whiteshell

Demande pour le renouvellement, pour une période de dix ans, du permis de déclassement d'un établissement de recherche et d'essais nucléaires pour les Laboratoires de Whiteshell

Audience publique de la Commission

Les 2 et 3 octobre 2019

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Manitoba Metis Federation Presentation

Canadian Nuclear Safety
Commission

Canadian Nuclear Laboratories
Licence Renewal Application for
the Whiteshell Laboratories

October 2-3, 2019



Overview

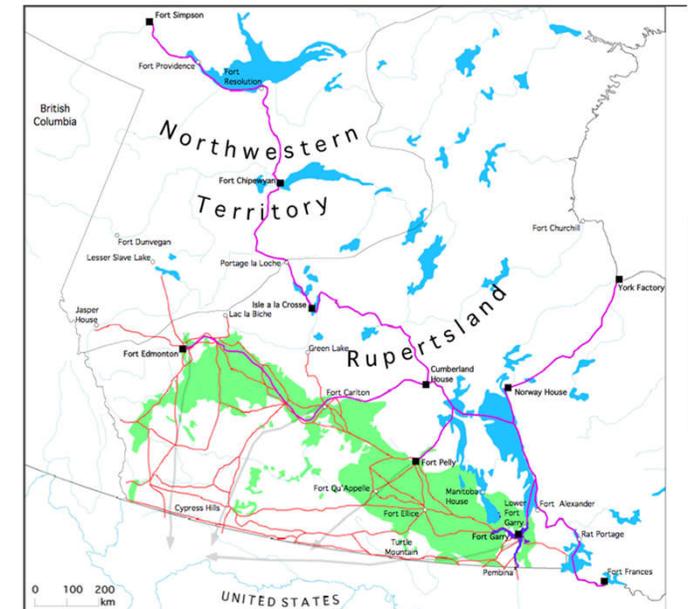
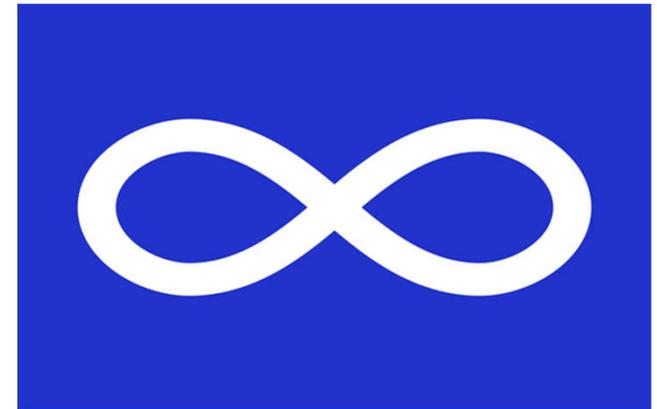
- 1) Background & Context: the Métis Nation, Manitoba Métis Community, Métis Rights, Claims and Interests
- 2) The Duty to Consult and Accommodate is Triggered by the Renewal Application
- 3) Outstanding Impacts and Concerns of the Manitoba Métis Community
- 4) Canada's International Obligations & Commitments to Reconciliation
- 5) Closing Comments & Recommendations

Context & Background

- Métis Nation and Manitoba Métis Community
- The Manitoba Metis Federation
- Métis Rights, Claims and Interests

The Métis Nation

- The Métis Nation is a distinct Indigenous people.
- Métis Nation in general, and in southern Manitoba, finds its earliest roots in the fur trade.
- The heart of the Métis Homeland is the Red River Valley.



Métis Economic Activity During the Fur Trade of the Western Interior

The Métis Nation

“The Métis were originally the descendants of eighteenth-century unions between European men - explorers, fur traders and pioneers - and Indian women, mainly on the Canadian plains, which now form part of Manitoba, Saskatchewan and Alberta. Within a few generations the descendants of these unions developed a culture distinct from their European and Indian forebears. In early times, the Métis were mostly nomadic. Later, they established permanent settlements centered on hunting, trading and agriculture. The descendants of Francophone families developed their own Métis language derived from French. The descendants of Anglophone families spoke English. In modern times the two groups are known collectively as Métis.” (*Cunningham*, para 5)

The Métis Nation's Struggle

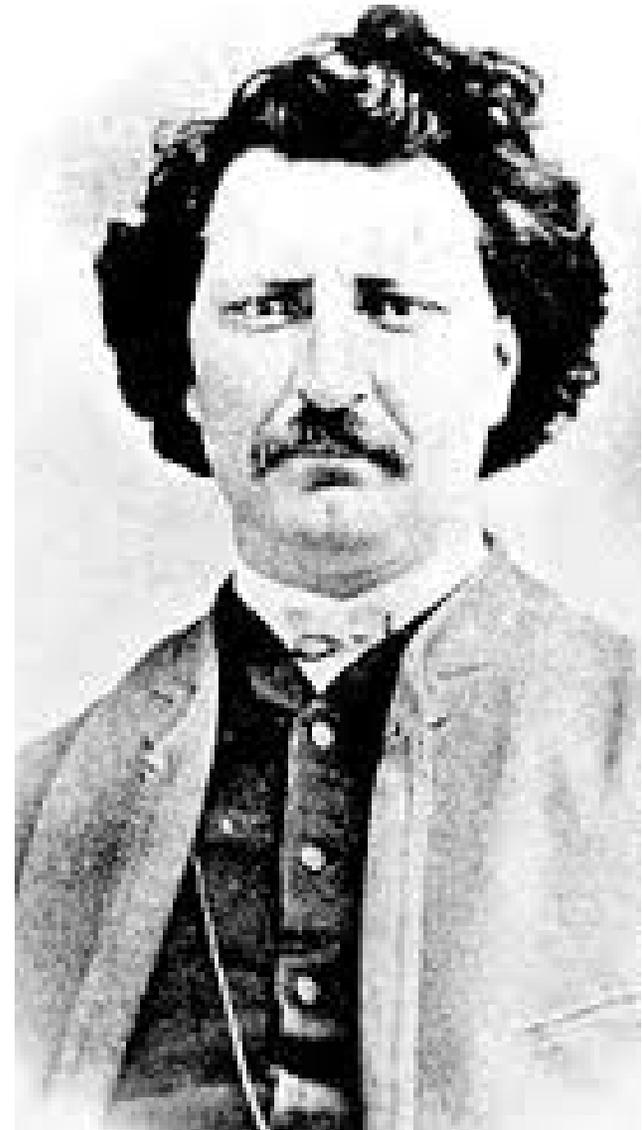
“The history of the Métis is one of struggle for recognition of their unique identity as the mixed race descendants of Europeans and Indians. Caught between two larger identities and cultures, the Métis have struggled for more than two centuries for recognition of their own unique identity, culture and governance. The constitutional amendments of 1982 ... signal that the time has finally come for recognition of the Métis as a unique and distinct people.”

-Supreme Court of Canada, 2011

(Cunningham, para 70)

Manitoba Métis Community

“When the Government of Canada presented itself at our doors it found us at peace. It found that the Métis people of the North-West could not only live well without it ... but that it had a government of its own, free, peaceful, well-functioning, contributing to the work of civilization in a way that the Company from England could never have done without thousands of soldiers. It was a government with an organized constitution whose jurisdiction was more legitimate and worthy of respect, because it was exercised over a country that belonged to it.”



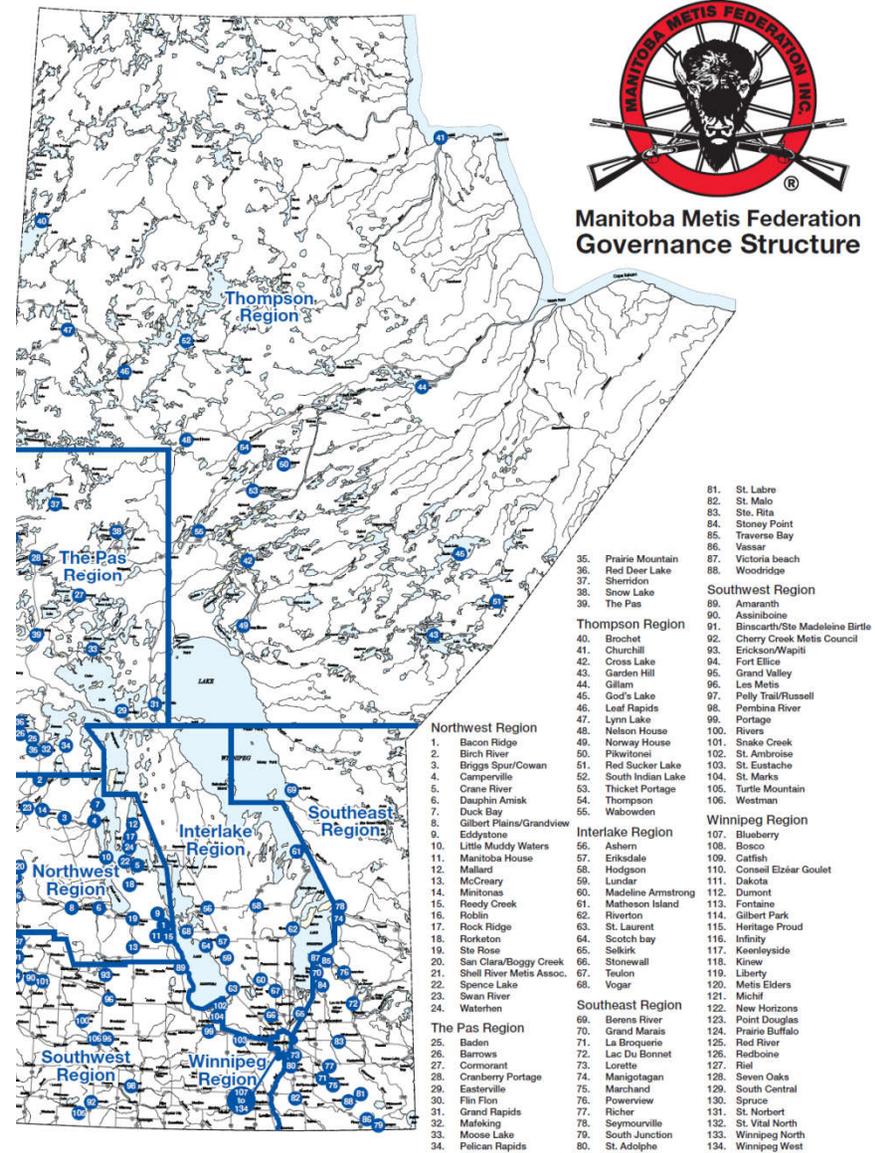


Manitoba Métis Community

- In *Goodon*, the court described the Manitoba Métis Community as a proud independent Métis population that constituted a historic rights-bearing community in present day Manitoba and beyond, which encompassed “all of the area within the present boundaries of southern Manitoba from the present day City of Winnipeg and extending south to the United States.” (para 48)
- “The lands that they owned...belonged to them once by the Indian title, twice for having defended them with their blood, and thrice for having built and lived on them...” (Louis Riel)

Manitoba Metis Federation

- The MMF is the official democratic self-government representative for the Métis Nation's Manitoba Métis Community.
- The MMF promotes the political, social, cultural and economic interests and rights of the Métis in Manitoba.
- The MMF is authorized to deal with the collective rights, interests and claims of the Manitoba Métis Community.
- The MMF is organized into 7 Regions, and 140 Locals throughout the Province.



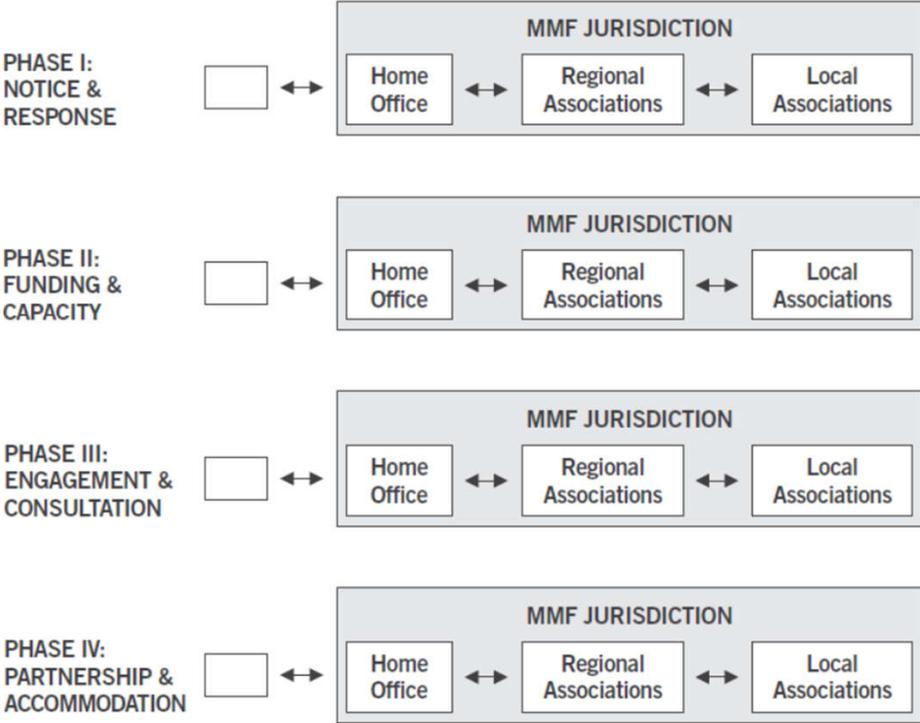
MMF Resolution No. 8

- The Manitoba Métis Community has appointed the MMF Home Office as its authorized representative for the purposes of Crown consultation and accommodation.

- In 2007, the MMF Annual General Assembly unanimously adopted Resolution 8, which reads in part as follows:

“this assembly continue[s] to give the direction to the Provincial Home Office to take the lead and be the main contact on all consultations affecting the Métis community and to work closely with the Regions and Locals to ensure governments and industry abide by environmental and constitutional obligations to the Métis”

Resolution No. 8 Framework



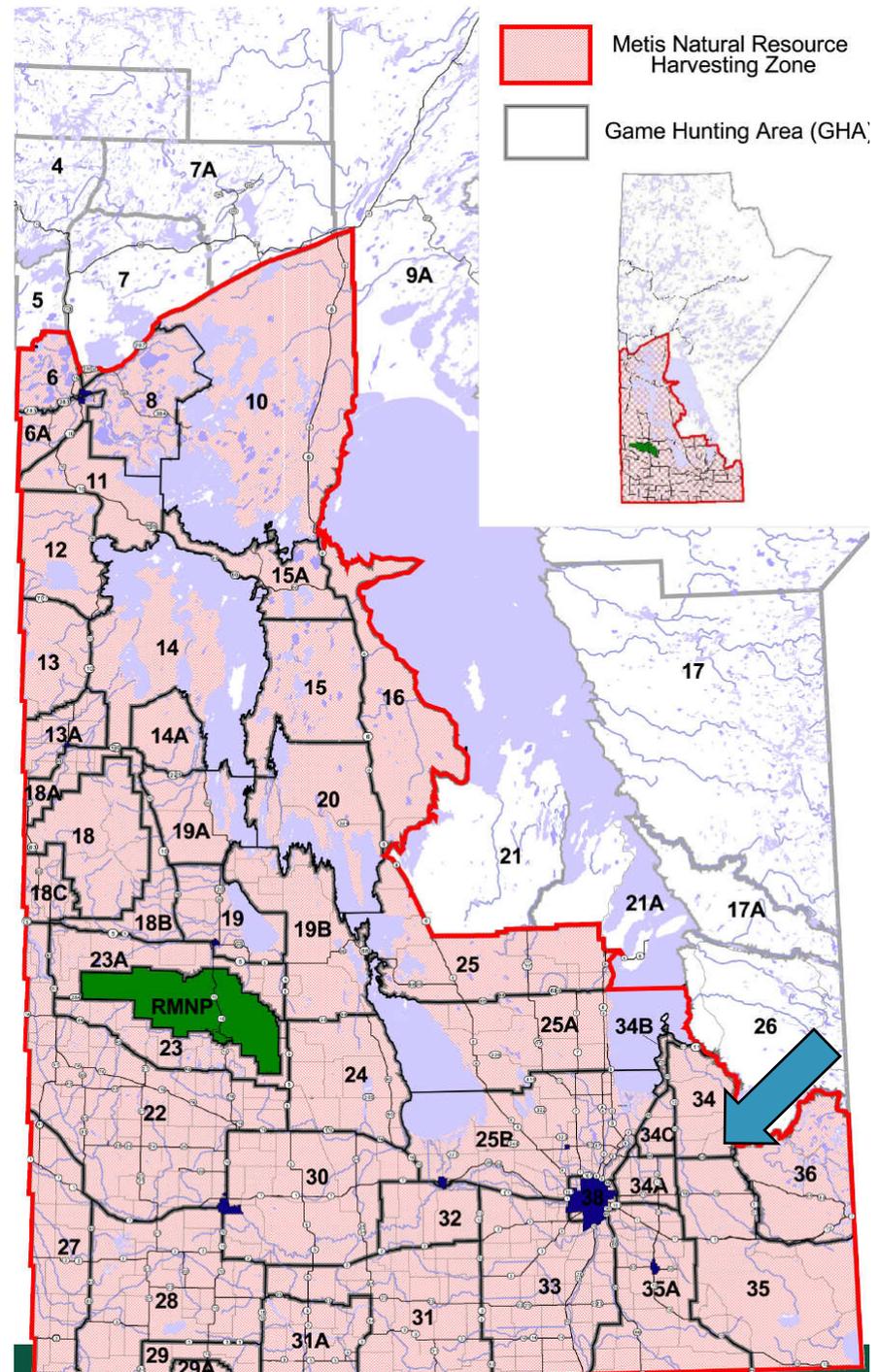
Métis Rights, Claims and Interests

- The Manitoba Métis Community possess Aboriginal rights, including, pre-existing Aboriginal collective interests in lands protected by section 35 of the *Constitution Act, 1982*, throughout their homeland and traditional territory, including the Whiteshell site.
- In 2008, in *R. v. Goodon*, the Provincial Court of Manitoba affirmed the existence of constitutionally protected Métis harvesting rights in the province:

“The Métis community of Western Canada has its own distinctive identity. As the Métis of this region were a creature of the fur trade and as they were compelled to be mobile in order to maintain their collective livelihood, the Métis "community" was more extensive than, for instance, the Métis community described at Sault Ste. Marie in *Powley*. The Métis created a large inter-related community that included numerous settlements located in present-day southwestern Manitoba, into Saskatchewan and including the northern Midwest United States.” (para 46)

Crown Recognized Métis Rights

- In 2012, the MMF and Manitoba government concluded the MMF-Manitoba Harvesting Agreement which recognizes Métis rights to “hunting, trapping, fishing and gathering for food and domestic use, including for social and ceremonial purposes and for greater certainty, the ability to harvest timber for domestic purposes” throughout an area spanning approximately 800,000 km² (the “Métis Recognized Harvesting Area”).
- MMF has strong assertions of harvesting rights beyond this recognized area.
- **The Whiteshell site is within the Métis Recognized Harvesting Area.**



Métis Rights, Claims and Interests

- In 2013, in *Manitoba Métis Federation Inc. v. Canada*, the Supreme Court of Canada held that the federal government had “failed to implement the land grant provision set out in s. 31 of the *Manitoba Act, 1870* in accordance with the honour of the Crown.” The SCC wrote:

“What is at issue is a constitutional grievance going back almost a century and a half. So long as the issue remains outstanding, the goal of reconciliation and constitutional harmony, recognized in s. 35 of the *Charter* and underlying s. 31 of the *Manitoba Act*, remains unachieved. The ongoing rift in the national fabric that s. 31 was adopted to cure remains unremedied. The unfinished business of reconciliation of the Métis people with Canadian sovereignty is a matter of national and constitutional import.” (para 140)

- This constitutional breach continues to burden the federal Crown and gives rise to an outstanding claim regarding the 1.4 million acres of land promised to the Métis.

Métis Rights, Claims and Interests

- Beyond those rights already established through litigation and recognized by the courts or in agreements with the Crown, the Manitoba Métis Community claims commercial and trade related rights.
- The Manitoba Métis Community's pre-existing customs, practices, and traditions—including as they relate to commerce and trade—were not affected by the *Natural Resources Transfer Act* and continue to exist and be protected as Aboriginal rights today.

MMF Canada Negotiations

- On May 27, 2016, the Government of Canada, and the MMF executed a Memorandum of Understanding on Advancing Reconciliation.
- On November 15, 2016, Canada and the MMF executed a Framework Agreement for Advancing Reconciliation that formalized a negotiation process between Canada and the MMF to:

“jointly develop a renewed nation-to-nation, government-to-government relationship” and “to arrive at a shared solution that advances reconciliation between the Parties consistent with the purpose of section 35 of the *Constitution Act, 1982* and the Supreme Court of Canada’s decision in *Manitoba Métis Federation Inc. v. Canada (AG)*.”

- These negotiations are ongoing, including related to:
 - Quantum, selection and management of potential settlement lands;
 - Water and subsurface rights;
 - Wildlife, fishing and fisheries;
 - Environmental Assessment; and
 - Land management, among other topics.

The Duty to Consult & Accommodate is Triggered by the Renewal Application

- The Duty to Consult and Accommodate
- The Duty to Consult and Accommodate is Triggered
 - Métis Rights, Interests, and Claims Affected by the Decision
- The Crown owes the Manitoba Métis Community a Deep Duty to Consult

The Duty to Consult & Accommodate

- The Crown's duty to consult is grounded in the honour of the Crown and the reconciliation of Indigenous peoples' prior occupation and use of the land with the assertion of Crown sovereignty.
- The Supreme Court of Canada has said that:

“The foundation of the duty in the Crown's honour and the goal of reconciliation suggest that the duty arises when the Crown has knowledge, real or constructive, of the potential existence of the Aboriginal right or title and contemplates conduct that might adversely affect it.”
(*Haida*, para 35)

- The test for whether the duty is triggered therefore has two parts:
 - i) Crown knowledge of potential Aboriginal or treaty rights; and
 - ii) A Crown action or decision that might adversely affect the Aboriginal or treaty right.

The Duty to Consult & Accommodate is Triggered



**THE MANITOBA MÉTIS
COMMUNITY HAS ESTABLISHED
RIGHTS, JUDICIALLY RECOGNIZED
CLAIMS, AND STRONG MÉTIS
SPECIFIC INTERESTS IN LAND**



**CNL'S RENEWAL APPLICATION
INCLUDES ACTIVITIES THAT WILL
IMPACT THE MANITOBA MÉTIS
COMMUNITY'S RIGHTS, CLAIMS
AND INTERESTS**

Evidence of Impacts on Métis Rights

MMF Reports provide evidence that, among other things:

- 424 locations of traditional land use information were identified in the Project area (75 within 100m of the Study Area)
- 90% of Métis participants consume deer harvested within 25 km of Whiteshell area
- 80% of Métis participants consume fish from within 25 km of the Whiteshell area
- 60% of Métis participants consume berries or fruit from within 25 km of the Whiteshell area
- Métis participants demonstrated a deep familiarity with the lands and waters of the Project area and concerns/unanswered questions regarding impacts of human health and environment
- CNL Licence Renewal Application identifies decommissioning activities that will have an impact on harvesting (e.g. decommissioning and demolition activities, increased traffic to the area, access restrictions, etc.)
- The potential for contamination of the lands, waters, and resources relied on by the Métis
- Remediation activities also have the potential to impact Métis rights (e.g. non-local species are used or where the plan does not include remediating the site to a use that is compatible with Métis harvesting and connection to the lands)
- CNL has stated that the purpose of its 10-year Licence Renewal application is to prepare an in-situ decommissioning plan; given this purpose—and the MMF’s known concerns with such an approach—consultation must contemplate the purpose of the application in addition to the specific activities proposed.

The Duty to Consult & Accommodate

- Potential impacts and asserted rights are sufficient to attract the duty to consult: “*Haida Nation* and *Taku River* set a low threshold. The flexibility lies not in the trigger (“might adversely affect it”) but in the variable content of the duty once triggered.” (*Mikisew*, para 34)
- The proposed decommissioning activities are not completed; there is still an opportunity for the Commission to impose conditions—as part of its new decision on CNL’s application—that can minimize and accommodate impacts on Métis rights.
- In addition, Strategic, “high-level” decisions that set a plan or establish a blueprint for how the Project will proceed also trigger the duty.
- CNL’s Licence Renewal Application clearly states its purpose is to allow CNL the time to complete an application for in-situ decommissioning; as such this purpose is part of the strategic decisions and blueprint for the in-situ plan that triggers consultation.

The Duty to Consult & Accommodate

- The courts have used the concept of a “spectrum” to describe the content, or what is required in order for the Crown to have fulfilled its duty:

“At the claims stage, prior to establishment of Aboriginal title, the Crown owes a good faith duty to consult with the group concerned and, if appropriate, accommodate its interests. As the claim strength increases, the required level of consultation and accommodation correspondingly increases. Where a claim is particularly strong — for example, shortly before a court declaration of title — appropriate care must be taken to preserve the Aboriginal interest pending final resolution of the claim.

Finally, once title is established, the Crown cannot proceed with development of title land not consented to by the title-holding group unless it has discharged its duty to consult and the development is justified pursuant to s. 35 of the *Constitution Act, 1982*.”

(*Tsilhqot'in*, para 91)

The Crown Owes the
Manitoba Métis
Community a Deep
Duty to Consult

- The following factors support a deep duty to consult and accommodate regarding the Whiteshell licence Renewal:
 - Established and Crown-recognized s. 35 Métis harvesting rights
 - Judicial recognized outstanding Métis claim for land and ongoing MMF-Canada negotiations regarding land and environment
 - Evidence in the MMF Reports that demonstrate use of the Whiteshell area by MMF Citizens to exercise their harvesting rights
 - Background and context of dispossession of Métis from their traditional territory, including the Whiteshell site
 - Limited amount of Crown land available in the area for Métis to exercise their rights

The Duty to Consult & Accommodate

- The Commission staff have incorreced stated that the duty to consult is not triggered. They have “encouraged” CNL to continue to engage with Indigenous communities regarding the Licence and decommissioning activities.
- “Encouragement” is insufficient.
- Clear direction is required that:
 - i) The duty to consult and accommodate the Manitoba Métis Community is triggered regarding the Licence Renewal and decommissioning activities; and
 - i) Consultation with the MMF is not optional, but is required in order to fulfill the Crown’s duty to consult and accommodate.

Recommendation #1

The duty to consult and accommodate the Manitoba Métis Community is clearly triggered



In order to ensure that the duty to consult and accommodate is fulfilled the Commission must include a licencing condition for ongoing consultation with the MMF

Outstanding Impacts & Concerns of the Manitoba Métis Community

- Evidence and Information about the Outstanding Impacts and MMF's Concerns regarding the Whiteshell Licence Renewal Application

Outstanding Impacts & Concerns About the Licence Renewal

- The MMF Reports outline, among others, the following outstanding impacts and concerns regarding the Whiteshell licence Renewal:
 - Contamination of the lands, waters, and resources on which the Métis rely to exercise their constitutionally protected rights and for subsistence
 - Impacts on Métis health and wellbeing
 - The need for Métis monitoring as an exercise of stewardship rights, as well as increased frequency and location of sampling
 - Restrictions on access to the site and impacts on Métis harvesting practices and timing
 - Impacts and concerns regarding remediation plans and long-term use of the Whiteshell site (e.g. whether it would be compatible with Métis use and traditions)
 - Better communication and sharing of information between the MMF and CNL

“wherever we are, we’re harvesting, we always harvest, and we still go back to our traditional areas, and still hunt those areas as well. They’re just not areas that our ancestors use that we forget about, we still use them, they’re still ours. This whole province of Manitoba, that’s ours . . . our Metis’ homeland, this is our harvesting area, you know. This is where we’ve been for hundreds and hundreds of years, so we’re not going anywhere and we’re still going to be using this land, my great-grandchild will be using it far as I have a say in it.”

MMF Citizen

(source: MMF TKLUS for the Whiteshell Decommissioning Project)

“Well, we’ve been here, we’re not going anywhere, we’ll be here till the end of time, and we’re people of the land. And if you care about mother nature, care about this earth, sit down and talk with us, together we can make a difference. A lot of us still have the old knowledge in our heads, and we’ll share with you. Because a lot of the ideas that you have, if you don’t know the land, don’t know the Earth, how can you heal something?”

MMF Citizen

(source: MMF TKLUS for the Whiteshell Decommissioning Project)

“Well, that [decommissioning] would affect everything, won’t it? Any kind of nuclear radiation. . . if it got away, would affect the whole system all the way down. Like they said for 200 years. As soon as that leaks into the groundwater, it leaks out and it goes into your rivers because they cement those things over and then they keep them cemented over but if you ever had an earthquake or something and it cracked, you never know how the world’s going. If they crack that, that thing, that radiation leaks out of there, look at all the trouble we’re having. . . See, if that got into the Winnipeg river system, it’d go right out Lake Winnipeg and it affects everybody and that whole system all the way up there, north of the lake.”

MMF Citizen

(source: MMF TKLUS for the Whiteshell Decommissioning Project)

Recommendation #2

There are outstanding impacts and unaddressed concerns of the MMF regarding CNL's Licence Renewal Application



In order to ensure that the duty to consult and accommodate is fulfilled a process for addressing the outstanding impacts and concerns of the MMF should be included as a licencing condition

Canada's International Obligations & Commitments to Reconciliation with the Métis

- The Commissions review and licencing renewal decision must be implemented in accordance with Canada's commitments and International obligations:
 - The United Nations Declaration on the Rights of Indigenous Peoples
 - Canada's 10 Principles Respecting the Government of Canada's Relationship with Indigenous Peoples

United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)

- On May 10, 2016, Canada committed to implementing the United Nations Declaration on the Rights of Indigenous Peoples.
- The Commission must exercise its discretion regarding CNL's Licence Renewal Application in light of Canada's commitment to implementing UNDRIP.

United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)

- Article 25 states: Indigenous peoples have the right to maintain and strengthen their distinctive spiritual relationship with their traditionally owned or otherwise occupied and used lands, territories, waters and coastal seas and other resources and to uphold their responsibilities to future generations in this regard.
- Article 26 (1) states: Indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired.
- Article 29 states:
 - i) Indigenous peoples have the right to the conservation and protection of the environment and the productive capacity of their lands or territories and resources. States shall establish and implement assistance programmes for indigenous peoples for such conservation and protection, without discrimination.
 - ii) States shall take effective measures to ensure that no storage or disposal of hazardous materials shall take place in the lands or territories of indigenous peoples without their free, prior and informed consent.
 - iii) States shall also take effective measures to ensure, as needed, that programmes for monitoring, maintaining and restoring the health of indigenous peoples, as developed and implemented by the peoples affected by such materials, are duly implemented.

Canada's 10 Principles

- Canada has adopted 10 Principles that are to apply to all its relationships and dealing with Indigenous communities, including the Manitoba Métis Community.
- The Commission must exercise its discretion regarding CNL's Licence Renewal Application in light of the Principles that Canada has committed to as part of its relationship with Indigenous peoples.
- Canada has said that:

“These Principles are a starting point to support efforts to end the denial of Indigenous rights that led to disempowerment and assimilationist policies and practices. They seek to turn the page in an often troubled relationship ...”

Canada's 10 Principles

Principle 1

The Government of Canada recognizes that all relations with Indigenous peoples need to be based on the recognition and implementation of their right to self-determination, including the inherent right of self-government.

It is the mutual responsibility of all governments to shift their relationships and arrangements with Indigenous peoples so that they are based on recognition and respect for the right to self-determination, including the inherent right of self-government for Indigenous nations. For the federal government, this responsibility includes changes in the operating practices and processes of the federal government.

Canada's 10 Principles

Principle 4

The Government of Canada recognizes that Indigenous self-government is part of Canada's evolving systems of cooperative federalism and distinct orders of government

As informed by the UN Declaration, Indigenous peoples have a unique connection to and constitutionally protected interest in their lands, including decision-making, governance, jurisdiction, legal traditions, and fiscal relations associated with those lands.

Nation-to-Nation, government-to-government relationships therefore include:

- i) Developing mechanisms and designing processes which recognize that Indigenous peoples are foundational to Canada's constitutional framework;
- ii) Involving Indigenous peoples in the effective decision-making and governance of our shared home;
- iii) Putting in place effective mechanisms to support the transition away from colonial systems of administration and governance; and
- iv) Ensuring, based on recognition of rights, the space for the operation of Indigenous jurisdiction and laws.

Canada's 10 Principles

Principle 6

The Government of Canada recognizes that meaningful engagement with Indigenous peoples aims to secure their free, prior, and informed consent when Canada proposes to take actions which impact them and their rights, including their lands, territories and resources

This Principle acknowledges the Government of Canada's commitment to new nation-to-nation, government-to-government relationships that builds on and goes beyond the legal duty to consult.

The Government of Canada recognizes the right of Indigenous peoples to participate in decision-making in matters that affect their rights through their own representatives institutions and the need to consult and cooperate in good faith with the aim of securing their free, prior, and informed consent.

The Government of Canada will look for opportunities to build processes and approaches aimed at securing consent, as well as creative and innovative mechanisms that will help build deeper collaboration, consensus, and new ways of working together [and] ensure that Indigenous peoples and their governments have a role in public decision-making as part of Canada's constitutional framework.

Canada's 10 Principles

Principle 10

The Government of Canada recognizes that a distinctions-based approach is needed to ensure that the unique rights, interests and circumstances of the First Nations, the Métis Nation and Inuit are acknowledged, affirmed, and implemented

The Government of Canada recognizes First Nations, the Métis Nation, and Inuit as the Indigenous peoples of Canada, consisting of distinct, rights-bearing communities with their own histories, including with the Crown.

The work of forming renewed relationship based on the recognition of rights, respect, cooperation, and partnership must reflect the unique interest, priorities and circumstances of each People.

Looking to the Future

MMF Citizens were asked what they wanted to see for the future of the Whiteshell site and decommissioning activities:

“Something sustainable that we could pass onto our grandchildren and they can pass that on, keep it. Make sure we all remember where we came from, spend time with family on the land. It’s all about preserving something for the future.”

“Well I’d like to see the government sit down, and I’d like to see the Metis have more control, sit down with the board, have First Nations, Metis government, and the provincial and federal government. Sit down equally, not just say well we just invite the Metis because we have to, you know. We got to be equal partners if we’re going to fix this.”

MMF Citizens

(source: MMF TKLUS for the Whiteshell Decommissioning Project)

Recommendation
#3

Canada has made commitments to implement UNDRIP and advance reconciliation with the Métis that must be considered CNL's Licence Renewal Application



The Commissions licencing conditions and review of CNL's Licence Renewal Application must align with Canada's commitments

Closing Comments and Recommendations

- Closing Comments
- MMF Licencing Recommendations

Closing Comments

- MMF has, over the last two years, developed a productive working relationship with CNL.
- MMF is hopeful that many of its outstanding concerns regarding impacts of the Whiteshell decommissioning activities can be addressed through further work with CNL.
- Canada can not leave this to chance or corporate “good will” on the part of CNL.
- The duty to consult is clearly triggered and there are outstanding, unaddressed impacts on Métis rights that require a process of consultation to resolve.
- Licence conditions for continued consultation with the MMF—that aligns with Canada’s commitment to implement UNDRIP and its commitment to advancing reconciliation with the Métis on a Nation-to-Nation, government-to-government basis—are required.

Closing Comments

- There are precedents for imposing such a licencing condition on CNL:

Project	Licencing Condition Text
Sisson Mine Project Condition 29(k)	In order to ensure First Nations are meaningfully engaged in ongoing project planning, development and delivery of monitoring programs should the project proceed, the proponent must provide for review and approval an overall First Nations engagement strategy
Site C Clean Energy Project Recommendation 20	The Panel recommends that the Province set aside the hunting, fishing and trapping rights in the Peace Moberly Tract for people holding Section 35 rights under the Constitution Act, 1982. The Panel also recommends that the Province and affected First Nations enter into discussions on the Area of Critical Community Interest with a view to the harmonious accommodation of all interests in this land.

Project	Licencing Condition Text
<p>Kitsault Mine Project</p> <p>Section 10</p>	<p>The proponent should be required to prepare and implement the following management plans referenced in the Comprehensive Study Report, in consultation with the Nisga’a Nation and to satisfy Government of British Columbia requirements:</p> <p>Economic, Social and Cultural Management Plans, including measures to accommodate the inability of Nisga’a citizens to carry out activities specified in the Nisga’a Final Agreement in those portions of the Nass Area and Nass Wildlife Area restricted for active mining during the life of the Project, support for Nisga’a business opportunities and strategies, and the development of a Nisga’a Nation-focused recruitment, training and employment plan.</p>
<p>Manitoba-Minnesota Transmission Project, National Energy Board Report</p>	<p>The Board recognizes that reduced or interrupted access to Crown lands may result in disruptions in the ability of Indigenous Peoples to practice their traditional activities. The Board is of the view that such an event could place burdens and challenges on affected Indigenous Peoples. As a result, the Board imposes Condition 22 which requires Manitoba Hydro to submit a Crown Land Offset Measures Plan that outlines how permanent loss of Crown lands available for traditional use by Indigenous Peoples resulting from the Project will be offset or compensated for.</p>

Summary of MMF Recommendations

In order to ensure that the duty to consult and accommodate is fulfilled the Commission must include a licencing condition for ongoing consultation with the MMF

In order to ensure that the duty to consult and accommodate is fulfilled a process for addressing the outstanding impacts and concerns of the MMF should be included as a licencing condition*

The Commissions licencing conditions and review of CNL's Licence Renewal Application must align with Canada's commitments to implement UNDRIP and advance reconciliation and a Nation-to-Nation, government-to-government relationship with the Métis

*please see the MMF's Speaking Notes and MMF Reports for additional details regarding the MMF's outstanding concerns and impacts

Draft Licencing Conditions for Consideration #1

The licensee shall prepare and implement a First Nation and Manitoba Metis Community Consultation and Engagement Strategy for approval by the Commission in order to ensure Indigenous communities are meaningfully consulted in ongoing project planning, development and undertaking of Licence activities. The Strategy shall include:

- a) Economic, Social and Cultural Management Plans, including measures to accommodate the inability of Indigenous peoples to carry out harvesting activities in and around the Whiteshell site due to decommissioning and Licence activities;
- b) Communications Plans, including community-specific communication protocols where requested by an Indigenous community, to provide for ongoing information sharing regarding matters such as timing of activities, potential access restrictions, and plain language information regarding the decommissioning activities and unaddressed questions and concerns;
- c) Updated Environmental Protection Plan and Human Health and Ecological Risk Assessment in light of the distinct factors for each Indigenous community (e.g. increased reliance on harvesting, traditional knowledge, etc.); and
- d) Consultation Plans to establish an ongoing, two-way dialogue between each Indigenous community and the licensee regarding outstanding impacts and concerns and measures that can be taken to address those concerns, including joint decision making, opportunities for ongoing Indigenous monitoring and stewardship, and involvement of Indigenous communities in decommissioning activities with the aim of securing their free, prior and informed consent for the Licence activities and plans.

Draft Licencing Conditions for Consideration #2

The licensee shall prepare and implement the following management plans, developed in consultation with First Nations and the Manitoba Metis Community, in order to ensure Canada's commitments to establishing a renewed relationship with Indigenous communities based on a recognition of rights, the United Nations Declaration on the Rights of Indigenous Peoples, and the duty to consult are upheld and fulfilled:

- a) Economic, Social and Cultural Management Plans, including measures to accommodate the inability of Indigenous peoples to carry out harvesting activities in and around the Whiteshell site due to decommissioning activities;
- b) Communications Plans, including community-specific communication protocols where requested by an Indigenous community, to provide for ongoing information sharing regarding matters such as timing of activities, potential access restrictions, and plain language information regarding the decommissioning activities and unaddressed questions and concerns;
- c) Updated Environmental Protection Plan and Human Health and Ecological Risk Assessment in light of the distinct factors for each Indigenous community (e.g. increased reliance on harvesting, traditional knowledge, etc.); and
- d) Consultation Plans to establish an ongoing, two-way dialogue between each Indigenous community and the licensee regarding outstanding impacts and concerns and measure that can be taken to address those concerns.

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Thank you

