

**Towards an Indigenous-specific engagement process for environmental assessment in
Manitoba**

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Abstract

The purpose of this thesis is to investigate Indigenous engagement in environmental assessment (EA) in Manitoba. The objectives are to examine changes in engagement approaches in EA in Manitoba, and to contribute to reconceptualizing Indigenous engagement within EA. The qualitative research design included a document review of Manitoba Hydro transmission projects, semi-structured interviews with five technical experts in EA and Indigenous engagement, and written submissions from Indigenous communities from recent public hearings. Manitoba Hydro has engaged with communities primarily through open houses, meetings with leadership, and through Aboriginal Traditional Knowledge studies. Elements of meaningful Indigenous engagement include proper timing, meaningful processes, and an understanding and recognition of Indigenous worldviews. Some of the biggest challenges to achieving meaningful engagement are historical and procedural, and are often tied to a lack of understanding of Indigenous worldviews. Solutions to overcoming these challenges include providing adequate time, changing approaches, fixing relationships, and improving Indigenous representation. These findings are echoed throughout the literature, and contribute to the discussion on achieving meaningful Indigenous engagement in EA. Moving forward, engagement processes need to be improved based on guidance and direction by Indigenous people to improve the overall effectiveness of EA.

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List of Definitions

Aboriginal Traditional Knowledge (ATK): broad term used to refer to the “cumulative body of knowledge and beliefs, handed down through generations by cultural transmission, about the relationship of living beings (including humans) with one another and with their environment” (Canada, Royal Commission on Aboriginal Peoples, 1996, Vol.4, p.324). The acronym varies across the literature, but ATK is the term used by Manitoba Hydro in their reports.

Consultation: interactions between the federal or provincial government and Indigenous communities, as part of duties owed by the Crown under Section 35 of the *Constitution Act, 1982*

Indigenous: term used to describe Aboriginal, Métis, First Nations, and other first peoples in Canada. This term has different connotations across Canada and around the world, but is used in the United Nations Declaration on the Rights of Indigenous Peoples, which Canada has endorsed.

Indigenous Engagement: voluntary interactions among proponent, government, and Indigenous communities as part of meaningful and effective environmental assessment.

Public Participation: any form of interaction between actors through the environmental assessment process.

List of Abbreviations

ATK: Aboriginal Traditional Knowledge

CEAA: Canadian Environmental Assessment Act

CEA Agency: Canadian Environmental Assessment Agency

CEC: Clean Environment Commission

EA: Environmental Assessment

EACP: Environmental Assessment Consultation Process

EIS: Environmental Impact Statement

EPP: Environmental Protection Plan

FNMEP: First Nations and Métis Engagement Process

MMF: Manitoba Métis Federation

MMTP: Manitoba-Minnesota Transmission Project

NAC: Northern Affairs Community

OCAP: Ownership, Control, Access, and Possession

PEP: Public Engagement Process

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1. INTRODUCTION

1.1 Background

Hydroelectricity is a major energy source both in Canada and in Manitoba (Natural Resources Canada, 2016). In Manitoba, hydropower is both a significant economic driver and electricity source, with the majority of the province's electricity coming from hydro. The sole provider of hydroelectric power in Manitoba is the Crown utility, Manitoba Hydro (Hoffman & Martin, 2012). For decades, the province has acted under the assumptions that it had the only legitimate claim to resources and land in the north, and that Aboriginal communities must be removed from the land in order for hydroelectric development to occur (Hoffman & Martin, 2012).

The provincial government's assumptions regarding land entitlements stem from colonial narratives that have existed since European settlement in Canada, which often present Indigenous cultures as static and traditional, or obsolete and in need of saving (Henderson & Wakeham, 2009). The colonial narrative and other early European notions such as *Terra nullius*¹ have contributed to the marginalized social, political and legal conditions currently faced by Indigenous peoples in Canada (Castleden et al., 2012). Academia is often criticized for perpetuating these colonial narratives in exploitative relations between non-Indigenous researchers and Indigenous communities (de Leeuw et al., 2012). Historically, research undertaken in Indigenous communities has often led to misrepresentation and appropriation of knowledge (Castleden et al., 2012), and Indigenous people feel they are studied "on", not "with" or "by" (de Leeuw et al., 2012). Colonial relations have shaped Indigenous research methods for

¹ *Terra nullius* is a term used in the literature regarding European colonization of North America. Translating to "vacant" or "empty land", *terra nullius* refers to land that is sparsely occupied, with no sovereignty and little established property (Fitzmaurice, 2007). Land was deemed to be empty if inhabitants followed migratory subsistence patterns, or were not using the land according to European expectations (Reid, 2010). In the Canadian context, European settlers viewed the country as empty, and were able to exclude and marginalize the Indigenous people living on the land (Castleden et al., 2012).

centuries, from eras of traditionalizing and assimilation into more recent periods of Indigenous research using Western ideologies (Wilson, 2003). Using the colonial worldview as the main research discourse has perpetuated the welfare dependency of Indigenous peoples and prevented the use of Indigenous paradigms in academia (Wilson, 2003). Colonial narratives and the misrepresentation of Indigenous knowledge have also created power structures favouring corporate development over Indigenous empowerment, and are often used by corporations, such as Manitoba Hydro, in developing new hydroelectric projects (Cameron, 2012).

In recent decades, major projects by Manitoba Hydro have included the Churchill River Diversion and the Lake Winnipeg Regulation, which had, and continue to have, significant economic, social, and environmental impacts on nearby Indigenous communities (Hoffman & Martin, 2012). Manitoba Hydro also has several large current and proposed hydroelectric development projects in Manitoba, including Wuskwatim Generating Station, Keeyask Generating Station, Conawapa Generating Station, and Bipole III Transmission Line (Manitoba Hydro, 2016). While some projects have been developed using a partnership model (Keeyask Hydropower Limited Partnership, 2016), most have not. Moreover, many projects have been criticized for not providing adequate benefits to Indigenous peoples and for imposing disproportionately adverse effects on Indigenous communities in the surrounding project area (Hoffman 2008; Rudolph & McLachlan, 2013).

1.2 Purpose

The purpose of this research is to investigate Indigenous engagement in environmental assessment (EA) in Manitoba. The research objectives are to:

1. Describe changes in approaches to Indigenous engagement in Manitoba; and,
2. Contribute to reconceptualizing Indigenous engagement activities within EA.

2. LITERATURE REVIEW

2.1 Environmental Assessment

2.1.1 Canadian Environmental Assessment

In its most basic terms, environmental assessment (EA) is the “identification and evaluation of actual or potential effects (positive and adverse) of an undertaking on the environment”

(Muldoon et al., 2015, p. 229). In most modern EA regimes the environment is viewed broadly so as to include its unique cultural and economic, and broader social dimensions. EA laws lay out procedures and processes to be followed, define the administrative structures, and usually create different types or levels of assessment. Most EA laws suggest that the process should be viewed as a series of steps and decisions that are made throughout the life of any development, from conception to decommissioning (Muldoon et al., 2015).

In Canada, formal EA legislation has existed for over 20 years, with the Canadian Environmental Assessment Act (CEAA), formally passed in 1995 (Muldoon et al., 2015). CEAA covered most developments, included opportunities for public engagement and required attention to cumulative effects (Gibson, 2012). However, CEAA had several flaws, including inadequate enforcement and follow-up monitoring mechanisms, a focus on projects rather than policies or strategic plans, and discretionary requirements to examine purposes and alternatives (Gibson, 2012). CEAA was replaced by CEAA 2012, which was introduced as part of the omnibus bill C-38 by the Conservative government at the time and was passed in June 2012 (Doelle, 2012). CEAA 2012 has been criticized for weakening several aspects of the EA regime in Canada, and is viewed as a regression from the previous legislation (Doelle, 2012; Gibson, 2012). Under CEAA 2012, a smaller number of projects are subject to assessment compared to the previous legislation (Muldoon et al. 2015). Additionally, there are tighter assessment timelines, stricter limitations on access to hearings, and significant negative effects can be justified without

requiring mitigation strategies (Muldoon et al., 2015). CEAA 2012 also set up provisions for equivalency and substitution, removing responsibility from the federal government and placing more pressure on provincial governments to ensure comprehensive assessments are conducted (Doelle, 2012). The federal government is currently reviewing CEAA 2012, and has plans to improve the legislation (De Souza, 2016).

2.1.2 Environmental Assessment in Manitoba

The origin of Manitoba's EA process began with the Clean Environment Act of 1968 (Lobe & Sinclair, 2016). After the addition of the Environmental Assessment and Review Process in 1975, the province introduced the Manitoba Environment Act (the Act) in 1988. The purpose of the Act is:

To develop and maintain an environmental management system in Manitoba which will ensure that the environment is maintained in such a manner as to sustain a high quality of life, including social and economic development, recreation and leisure for this and future generations (Manitoba Environment Act, s. 1[1]).

The Act does not just address the EA process, but develops an overall legislative framework for environmental management within the province (Lobe & Sinclair, 2016). As well, the Act authorizes the Department of Sustainable Development (formerly Conservation and Water Stewardship) to carry out EA in the province (Lobe & Sinclair, 2016). Developments are split up into one of three classes based on their perceived impact under the Act, which dictates the amount of detail required in the EA (Lobe & Sinclair, 2016). Class 1 developments have effects primarily dealing with the discharge of pollutants; Class 2 developments have effects unrelated to pollution, or have other effects in addition to pollution, or are "exceptional"; and Class 3 developments have effects of a certain magnitude or are anticipated to create a number of environmental issues (Lobe & Sinclair, 2016). Both the Manitoba-Minnesota Transmission

Project (MMTP) and Bipole III, the two most recent transmission projects in the province, classify as Class 3 developments because of their size and transmission capacity.

Licenses are granted by the Department of Sustainable Development with terms and conditions that must be followed by the proponent. Despite numerous shortcomings of the provincial and federal processes, both pieces of legislation offer opportunities for public participation (Gibson, 2012; Lobe & Sinclair, 2016).

2.2 Public Participation

Public participation is commonly viewed as a positive and desirable component of EA (e.g., O’Faircheallaigh, 2010). Public participation is any form of interaction between actors through the EA process, and can range from providing information to decision makers, to participating in decision-making processes, to shifting the balance of power and participating in policy making (O’Faircheallaigh, 2010). Some scholars (Lockie, 2001; O’Faircheallaigh, 2010) argue that public participation must be *meaningful* in order to be truly effective. Meaningful public participation processes are characterized by integrity and accountability, and include fundamental procedural elements: access to information, public hearings, adequate notice, and assistance for participants (Sinclair & Diduck, 2005; Stewart & Sinclair, 2007). Community engagement is a component of public participation that specifically deals with the voluntary interactions among government, industry, and communities to determine impacts and benefits of a given project (Udofia et al., 2015). There is a desire to improve community engagement processes in EA amongst scholars, regulators and resource developers, as effective EA is believed to require effective community engagement (Udofia et al., 2015). Effective community engagement provides several benefits to the overall EA process, including increasing access to

local knowledge, legitimizing the outcomes of decision-making processes, and ensuring public needs are being met (Udofia et al., 2015).

Indigenous-specific community engagement is viewed as an important component of effective EA (Booth & Skelton, 2011), since Indigenous communities are often most affected by projects that trigger EAs (Udofia et al., 2015). Indigenous engagement in Canada has become an important aspect of EA for several reasons. Notably, under Section 35 of the *Constitution Act, 1982*, the Crown has a duty to consult with and, where appropriate, accommodate Aboriginal peoples in Canada (Department of Aboriginal Affairs and Northern Development Canada, 2011). The duty to consult has been shaped over the past three decades by judicial interpretations of Section 35 in the Supreme Court of Canada. Consultation must now be *meaningful*, although this definition has yet to be determined by the court system (Booth & Skelton, 2011). The duty to consult and accommodate arises when the Crown is contemplating conduct or decisions with potential adverse impacts on Aboriginal or Treaty rights recognized and affirmed under Section 35 (DAANDC, 2011). The federal government published Aboriginal Consultation and Accommodation: Interim Guidelines for Federal Officials to Fulfill the Legal Duty to Consult in 2008, which has five principles for consultation. These principles are: mutual respect; accessibility and inclusiveness; openness and transparency; efficiency; and timelines (Kwiatkowski et al., 2009).

Aside from the Crown's constitutional duty to consult and accommodate, project proponents undertaking an EA also have a responsibility, and often a legal duty, to consult. Moreover, through legislation, treaty obligations, and court rulings, proponents are obligated to consult meaningfully (Booth & Skelton, 2011). Indigenous peoples are increasingly being included in the public participation process, although this is often the result of conflict from having been

previously excluded from these proceedings (O’Faircheallaigh & Corbett, 2005). Regulators are being encouraged, particularly by Indigenous communities, to make EA processes more effective, participatory and focused on providing environmental and cultural protection and benefits to local communities (Udofia et al., 2015). Some proponents will engage with Indigenous communities even when there is no legal obligation to do so, as a matter of good corporate social responsibility and policy (O’Faircheallaigh & Corbett, 2005).

Indigenous engagement is clearly a valuable component to effective EA. However, there are longstanding criticisms about the opportunities for meaningful Aboriginal engagement in EA (Usher, 2000), including uneven distribution of participant assistance, irregular engagement opportunities and lack of flexibility in the process (e.g., Mulvihill & Baker, 2001, Whitelaw et al., 2009). Other criticism includes that EA’s basic framework was created under oppressive Western ideologies, and does not allow for Indigenous perspectives, worldviews, rights and knowledge to be fully expressed and respected (Gibson et al., 2015). To address these concerns, some studies have recommended procedural fixes, some the addition of new participation methods, such as mutual education, and others have recommended complete reconsideration of the entire EA process to be more sensitive to Indigenous issues (Booth & Skelton, 2011). Along these lines, Mulvihill and Baker (2001) argued that formal EA processes need to be tailored to local culture in all phases of community engagement, and should be given more flexibility as new experiences can enhance the effectiveness of EA procedures.

It is imperative to find solutions to the criticisms about the opportunities for meaningful Indigenous engagement. Failure to address Aboriginal concerns in EA can perpetuate colonial narratives and compromise the overall effectiveness of EA processes (Booth & Skelton, 2011). Aboriginal engagement and consultation is thus increasingly important in EA practice, and

includes considerations not found in participation by other affected/ interested publics, such as efforts to understand and respect traditional knowledge (Mulvihill & Baker, 2001; Plate et al., 2009).

Manitoba Hydro, although it does not have the constitutional duty to consult, states in its corporate strategic plan that engaging impacted Aboriginal communities in a positive way is vital to enhance working relationships (Manitoba Hydro, 2013). Through the policies and principles it has in place, Manitoba Hydro aims to resolve and manage ongoing obligations from past development, increase employment opportunities for Aboriginal people at Manitoba Hydro, continue to enhance Aboriginal training and support programs, and promote and pursue business relationships with Aboriginal companies (Manitoba Hydro, 2013). In my thesis, “consultation” is used to refer to Crown-Aboriginal consultation obligations under Section 35 of the *Constitution Act, 1982*. “Engagement” is used to refer to the interactions undertaken by Manitoba Hydro with First Nations, Métis, and Aboriginal organizations and communities.

3. METHODS

3.1 Research Approach

I had planned to use a mixed methods approach, combining qualitative and Indigenous methods.

This approach to mixed methods, like all approaches, provides several benefits, including increasing the validity of the research, the scope of inquiry, and depth of the results (Botha, 2011). Combining conventional qualitative and Indigenous methodologies also creates the potential to decolonize Indigenous research and clarify the relationship between Indigenous ways of knowing and conventional Western research (Botha, 2011). There were two main concepts that guided the development of my research approach: community-based participatory research (CBPR), and the principles of ownership, control, access, and possession (OCAP).

CBPR is a process emerging in Indigenous-based research where decision-making power and research ownership are shared between the researcher and the community (Castleden et al., 2012). Ideally initiated by the community, CBPR aims to create partnerships and relationships based on mutual respect, and focuses on creating an environment in which unique strengths from all partners are recognized (Minkler, 2005; Lavallée, 2009; Castleden et al., 2012). The main tenets of CBPR are shared decision-making power, co-ownership, bi-directional research capacity, co-learning and cross-cultural exchange, and co-creation of new knowledge (Castleden et al., 2012). These tenets are guided by the four R's: respect, relevance, reciprocity, and responsibility (Castleden et al., 2012). The four R's are regarded as principles for empowerment in higher education for First Nations people (Kirkness & Barnhardt, 1991). These principles are also important in guiding research that is respectful to Indigenous peoples (Wilson, 2003). While CBPR is regarded as an emerging approach for effective Indigenous engagement, it can be difficult to mobilize these tenets in practice due to the long time period required to establish meaningful relationships (Castleden et al., 2012).

The other emerging principles in Indigenous research are ownership, control, access, and possession (OCAP) (Schnarch, 2004). OCAP is considered to be a political response to colonial relations as it relates to Indigenous research (Schnarch, 2004). The literature on OCAP presents several lists of ethical guidelines when conducting research with Indigenous communities (e.g. Schnarch, 2004). OCAP is also seen as a method for creating tools for effective Indigenous governments, namely power, resources, and legitimacy (Schnarch, 2004). Power refers to the authority of Indigenous governments to act, resources are the human, natural and financial capital available to these governments, and legitimacy refers to the support and confidence the public has in their government (Schnarch, 2004). These tools together allow Indigenous governments to make meaningful decisions, while maintaining public support and being supplied with the resources to govern effectively (Schnarch, 2004).

As part of my Research Assistant work with Dr. Fitzpatrick over the summer of 2016, I was fortunate enough to meet with a multi-First Nation Elders group established by the Assembly of Manitoba Chiefs on August 9 and 10, 2016. After listening to and learning from the Elders, I had initially hoped to establish a relationship with them, and receive guidance from them in regards to my research. However, as I learned more about respectful Indigenous research, I realized that I did not have enough time to create a research methodology that would allow me to include Indigenous communities in a meaningful and beneficial way. Although I did not use the information I received from the Elders in my thesis, my experience with them provided a lens that guided my research approach overall. I ended up using qualitative methods to meet my research objectives, described in more detail below.

3.2 Data Collection

3.2.1 Literature and Document Review

An extensive review of academic literature was conducted to reveal the array of purposes, methods, challenges and opportunities with respect to Indigenous engagement in EA. This formed the foundation in my understanding of historical and current approaches to Indigenous engagement in EA. For completing Objective 1, recent transmission projects from Manitoba Hydro were used as a case study. Choosing similar developments allowed me to look at how Manitoba Hydro's approach to Indigenous engagement changed between projects. The document review consisted of the Bipole III Environmental Impact Statement (EIS), the Clean Environment Commission (CEC) report for Bipole III, and the Manitoba-Minnesota Transmission Project (MMTP) EIS.

As stated previously, the engagement process for the MMTP was developed based on feedback from previous Manitoba Hydro projects such as Bipole III (Manitoba Hydro, 2015). Bipole III was a controversial development for Manitoba Hydro, and faced much criticism from across the province (e.g. Bipole III Coalition, 2017). Since the MMTP is said to have been based on comments received after Bipole III, comparing the types of methods used illustrated the evolution of Manitoba Hydro's Indigenous engagement processes. Following the submission of the Bipole III EIS, the CEC produced a report that critiqued the EIS and presented recommendations (both licensing and non-licensing) that should be considered by Manitoba Hydro in future developments. The MMTP EIS was analyzed to determine which recommendations Manitoba Hydro implemented and which ones were not included in the MMTP engagement process.

As well, as part of the recent CEC Hearings for Bipole III and Keeyask, many Indigenous communities submitted written testimonies and documents outlining their concerns related to these projects. Many of these concerns related to the engagement activities and methods used, and I used quotes directly from these documents as part of completing Objective 2. All the documents that were used in this literature and document review are publicly available.

3.2.2 Interviews

Upon successful completion of UW ethics review, I conducted individual interviews with five technical experts in the field of Indigenous engagement or environmental assessment (e.g., lawyers, environmental consultants, academics, government officials). I purposively selected my participants (Elo et al., 2014) to obtain information from specialized informants who are most knowledgeable about the changes and deficiencies in Indigenous engagement over time. I primarily chose experts who are knowledgeable in the provincial context, although some experts had experience in assessment outside of Manitoba. Both objectives were addressed in my interview questions. For Objective 1, the questions (see Appendix A) focused on key changes in the approaches and methods used for Indigenous engagement in Manitoba based on the participants' involvement in recent developments. To address Objective 2, questions addressed barriers to achieving meaningful Indigenous engagement, and solutions to overcoming these challenges. I did not explore issues relating to the duty to consult in substantive detail because, although important and relevant in the context of this project, it was outside the scope of my research. Questions were guided by the information obtained in the document review, and the interviews provided valuable expert insight into the technical challenges in meaningful Indigenous engagement and how to overcome these obstacles. The interviews took place either face-to-face or over the phone, depending on scheduling and accessibility. I took some

handwritten notes during interviews and, with consent from my participants, used an audio recorder so I could transcribe the interviews verbatim at a later time.

There are several benefits to using interviews as a data collection technique, including information acquisition even when direct contact is not possible (in the case of telephone interviews), and the provision of historical information (Creswell, 2014). As with any qualitative data collection type, there are also some limitations, such as researcher presence creating a biased response from participants, filtered responses, and indirect information (Creswell, 2014). I will address these limitations using techniques described in the Trustworthiness section below. All participants signed and received a copy of the attached written consent form, which is explained further in the Ethical Considerations section below.

3.3 Data Analysis

The document review employed a conventional qualitative content analysis to reveal changes in approaches to Indigenous engagement. I used an inductive approach in which the coding categories emerged directly from the data (Hsieh & Shannon 2005). In doing so, I created a timeline of changes in engagement rationale and methodology used by Manitoba Hydro between the Bipole III and MMTP projects. Allowing the changes and associated themes to emerge directly from the data took advantage of one of the main strengths of conventional content analysis (Hsieh & Shannon, 2005).

Interview data from the technical experts were analyzed using NVivo qualitative data analysis software (QSR 2014). I followed the procedures outlined by Creswell (2014). Data were first organized, prepared and arranged, to compile the interviews with consistent formatting. Coding was done with NVivo, which made the process faster and more efficient, helped ensure consistency and comprehension, and allowed for analyses that might not have been feasible by

hand (Weitzman 1999). Where possible, I followed a situated approach (Creswell, 2014) by using the language from the participants for my categories. Since my interview questions were tailored to my objectives, I used the question themes to generate codes. Next, I discussed both separate and interconnected themes, as it was the most effective way to convey the main themes in the narrative (Creswell, 2014). I then used quotes from the Indigenous written submissions to supplement the overall narrative, to highlight common themes and present any discrepancies that existed in the data between the interview and written data (Thomas, 2011). I used direct quotes from participants, with permission, throughout my results to highlight key themes within the data. The discussion is an interpretation of my results, which is a combination of personal reflection and comparison to existing literature and theories on meaningful engagement.

3.4 Trustworthiness

Based on the nature of my research design, I used approaches that are common in the field of qualitative research to ensure that my findings are trustworthy (the qualitative, naturalistic equivalent of reliability and validity, which are concepts used in quantitative, positivistic research) (Creswell, 2014; Elo et al., 2014). There are several procedures I used to address the four main criteria of trustworthiness, which are credibility, transferability, dependability, and confirmability (Shenton, 2004). I used more than one method to collect my data, namely participant interviews and document reviews. In using both methods the limitations of each were compensated for while the benefits of each exploited. This process, known as triangulation, is one way of promoting the credibility and confirmability of qualitative research (Shenton, 2004). As well, the interview participants had different experiences with Indigenous engagement, both in terms of the types of engagement methods used and the overall effectiveness of these processes. Using multiple methods to inform my interpretation enhanced the overall credibility of my data analysis (Creswell & Miller, 2000; Shenton, 2004).

To address transferability, I have described the context of my research in rich detail, which allows the reader of my research to determine whether or not my results are transferable to other situations (Shenton, 2004). Further, I included any discrepant information or information that is contrary to the overall themes of my data to enhance the credibility of my research. The transferability of my research is also enhanced by including all information, since this provides the reader with the opportunity to understand the context in better detail (Shenton, 2004).

Throughout this process, I have kept in mind the biases that I bring to the research. Self-reflection throughout the process helped to create a qualitative narrative that is more open and honest, and therefore more valid (Creswell, 2014). By acknowledging my beliefs and biases, I hope to have increased the confirmability of my findings (Shenton, 2004). I used direct quotes from participants that highlighted the main themes to incorporate their voices directly into my analysis (Booth & Skelton, 2011) and to alleviate potential researcher bias. Using the participants' voices throughout my analysis helped to ensure confirmability, the degree to which the results accurately depict the participants' experiences and ideas (Shenton, 2004). Criticism about post-hoc validity checking is that too much emphasis is placed on the research outcomes, and not enough is placed on the processes throughout the research (Morse et al., 2002). To alleviate this, I have explained my research process in detail, including information on the research design, the data collection methods and processes, and an evaluation of the effectiveness of the process (Shenton, 2004). This is the most effective way to address the dependability of my research (Shenton, 2004).

3.5 Ethical Considerations

The written consent form was provided to participants prior to the interviews. Participants were made aware that participation is voluntary, that they have the option to withdraw from the study

at any time, and that their information would be kept anonymous and confidential if they wished. If participants chose to remain anonymous, they were randomly given a participant number that was used in my research. They are referred to as technical or traditional experts in the field of environmental assessment and/ or Indigenous engagement, and no personal information has been disclosed.

I took handwritten notes during the interviews and, with consent from my participants, used an audio recorder so I could transcribe the interviews in more detail at a later time. Participants were given the chance to review the transcriptions and make changes or remove any information they did not wish me to use in my analysis. Allowing the participants to review the transcriptions permitted them to protect their anonymity, and minimized any risks from participation.

4. RESULTS

4.1 Major Methods & Approaches – Manitoba Hydro

The terms Aboriginal and First Nations are used in this section when describing the engagement processes, as these are the terms used by Manitoba Hydro and the Clean Environment Commission (CEC) in their reports.

This section summarizes the recent evolution of Manitoba Hydro’s approach to Indigenous engagement. The Bipole III Transmission Line Project (Bipole III) and the Manitoba-Minnesota Transmission Line Project (MMTP) are the two most recent transmission projects, both of which cover significant portions of the province. Bipole III took a four-round consultation approach known as the Environmental Assessment Consultation Process (EACP), which took place from early 2008 to the spring of 2011 (Manitoba Hydro, 2011, Bipole III EIS, p. 5-4). For the MMTP, the process was a pre-engagement and three-stage round known as the First Nations and Métis Engagement Process (FNMEP), occurring from August 2013 until regulatory filing in September 2015 (Manitoba Hydro, 2015, MMTP EIS, p. 4-5). Manitoba Hydro, in the MMTP EIS, stated that the FNMEP was guided by feedback from the CEC hearings for Bipole III. As noted in Chapter 3, these two projects present an opportunity to learn how Manitoba Hydro, one of the largest corporations in the province, has engaged with Indigenous communities and how their process changed between projects. This section will outline the engagement process used for Bipole III, the feedback obtained from CEC, and the resultant engagement process for the MMTP.

4.1.1 Bipole III Transmission Line

Bipole III is a linear transmission line project, running 1,384km from the Nelson River north of Gillam to a terminal site east of Winnipeg. “Manitoba Hydro’s approach to engagement, including Aboriginal engagement, in the Bipole III planning process was designed to be

adaptive, involving the early and ongoing involvement of Aboriginal people, communities, and organizations through a variety of mechanisms” (MH, 2011, Bipole III EIS, p. 5-14).

4.1.1.1 Engagement Description

The four-round EACP took place over three years, from early 2008 to the spring of 2011 (MH, 2011, Bipole III EIS, p. 5-4). The EACP was based on guidelines from the Canadian Environmental Assessment Agency (CEA Agency) regarding meaningful public participation. These principles include: early notification, shared knowledge, adaptive process, and sensitivity to community values (Clean Environment Commission, 2013, Bipole III, p. 17). Beyond regulatory requirements, Manitoba Hydro stated they also strove to follow the current acceptable practices and principles used in the industry (CEC, 2013, Bipole III, p. 17). The EACP was not designed specifically for Aboriginal communities. Rather, the engagement between Manitoba Hydro and First Nations and Aboriginal and Northern Affairs Communities (NACs) was one component in the larger consultation program for Bipole III (MH, 2011, Bipole III EIS, p. 5-15). The engagement for Aboriginal and non-Aboriginal people was carried out at the same time but separately, due to the “unique rights, interests and perspectives of Aboriginal peoples” (MH, 2011, Bipole III EIS, p. 5-14). The EACP was open to all communities located in the broad Project Study Area, which resulted in 26 First Nations participating in the process (MH, 2011, Bipole III EIS, p. 5-16).

4.1.1.2 Engagement Purposes

The four rounds of the EACP each had their own purpose and goals. Round 1 aimed to introduce the project, disseminate information, and initiate dialogue between Manitoba Hydro and potentially affected communities and citizens (MH, 2011, Bipole III EIS, p. 5-4). Round 2 continued to provide project information and information regarding the Site Selection and Environmental Assessment (SSEA) process, and identified potential routing issues and

alternative locations (MH, 2011, Bipole III EIS, p. 5-4). In Round 3, the purpose of the EACP shifted to presenting alternative routes and receiving concerns and feedback (MH, 2011, Bipole III EIS, p. 5-4). The final round presented the preliminary preferred Bipole III route, and sought to “obtain input on mitigation measures to minimize potential adverse effects and enhance positive effects” (MH, 2011, Bipole III EIS, p. 5-7).

4.1.1.3 Engagement Approaches

A variety of approaches were used in the EACP, moving from broad-based to narrowly focused as the route selection was finalized (MH, 2011, Bipole III EIS, p. 5-8). Throughout the EACP, Manitoba Hydro used several methods of engagement with Aboriginal people, including: community and leadership meetings; workshops and self-directed studies for Aboriginal Traditional Knowledge (ATK); and discussions with regional Aboriginal organizations, potentially affected resource users, and certain communities with an interest in the project (MH, 2011, Bipole III EIS, p. 5-14). The ATK studies either involved workshops led by Manitoba Hydro with participation from communities, or were self-directed and led by six different communities and the Manitoba Métis Federation (MMF) (MH, 2011, Bipole III EIS, p. 5-18). Manitoba Hydro took the concerns from the ATK workshops and self-directed studies and incorporated them into discussions about site-specific and culturally appropriate mitigation measures (MH, 2011, Bipole III EIS, p. 5-35). As part of the broader EACP, Manitoba Hydro also held 78 open houses in Aboriginal communities and NACs (MH, 2011, Bipole III EIS, p. 5-16). At the time the EIS was filed, Manitoba Hydro stated they would “continue to provide Project updates and encourage ongoing communication with all Aboriginal communities” (MH, 2011, Bipole III EIS, p. 5-35).

4.1.2 CEC Feedback about Bipole III Engagement

4.1.2.1 CEC Hearing Process

After the EIS was submitted by Manitoba Hydro to the province, the Minister of Manitoba Conservation and Water Stewardship requested on December 5, 2011 that the Clean Environment Commission (CEC) hold public hearings for Bipole III (Bipole III CEC Hearing, p. 1). The CEC Hearings for Bipole III took place in two stages, beginning in October 2012. The first round of public hearings took place in seven cities around the project area: Winnipeg, Gillam, Thompson, The Pas, Dauphin, Niverville and Portage La Prairie (CEC, 2013, Bipole III, p. 8). On October 29, 2012, Manitoba Hydro presented potential route modifications at the request of Manitoba Conservation and Water Stewardship (CEC, 2013, Bipole III, p. 2). To allow the proponent and participants to analyze the proposed changes, the hearings adjourned from November 22, 2012 until March 4, 2013, at which time they resumed in Winnipeg and lasted until March 15 (CEC, 2013, Bipole III, p. 2). Following the CEC Hearings, the Commission recommended that Manitoba Hydro be granted a license for the Bipole III project. There were 26 licensing recommendations made, primarily focused on wildlife studies and route changes (CEC, 2013, Bipole III, p. 127). In addition, the commission made 17 non-licensing recommendations, some of which pertained to Manitoba Hydro's EACP.

4.1.2.2 Challenges in Consultation

The legacy of Manitoba Hydro's relationship with Aboriginal people was mentioned throughout the hearings. Some communities noted that low attendance at consultation activities is likely due to "consultation fatigue" (CEC, 2013, Bipole III, p. 23). Projects such as the Wuskwatim Generating Station and the Keeyask Generating Station both had recent or ongoing consultation, from both Manitoba Hydro and the provincial government's Crown consultation obligations under Section 35 of the *Constitution Act* (CEC, 2013, Bipole III, p. 23). Beyond consultation

fatigue, the legacy of mistrust in Manitoba Hydro among many communities could have attributed to the low response and attendance at many consultation activities (CEC, 2013, Bipole III, p. 24). Manitoba Hydro stated that CEA Agency guidelines for consultation were followed, but they did not appear to reference or include the CEA Agency Interim Principles for the inclusion and use of ATK (CEC, 2013, Bipole III, p. 26).

4.1.2.3 Recommendations Regarding ATK

The Commission heard concerns about the collection and use of ATK throughout the process. These concerns included the timing and notification of ATK processes, how the ATK workshops were led, and how the ATK from the self-directed studies was summarized in the EIS (CEC, 2013, Bipole III, p. 23). There was also criticism that NACs were included in the Aboriginal engagement process since constitutionally, they are not the same as Aboriginal communities (Bipole III CEC Hearing, p. 23). The Commission noted that collecting ATK earlier in the process could inform data collection for subsequent scientific and land-use studies (CEC, 2013, Bipole III, p. 27). As a non-licensing recommendation, the Commission recommended that the Manitoba Government and Manitoba Hydro look into developing ATK databases on a provincial scale to assist in regional planning and project development (CEC, 2013, Bipole III, p. 27). Beyond improving the inclusion of ATK in the EIS, the Commission also recommended that Manitoba Hydro undertake an ecosystems-based approach in their EA, to keep in line with Aboriginal worldviews or interconnectedness in the environment (CEC, 2013, Bipole III, p. 40).

4.1.2.4 Recommendations to Improve Consultation

The Commission mentioned the need for Manitoba Hydro to modernize its consultation programs and develop approaches that are targeted to Aboriginal people, as well as a different approach for working with the MMF as a province-wide collective for Métis interests in Manitoba (CEC, 2013, Bipole III, p. 26). In developing new consultation programs, the

Commission recommended consulting experts and representatives of Aboriginal communities as a way to build trust (CEC, 2013, Bipole III, p. 26). One non-licensing recommendation was for Manitoba Hydro to obtain input from experts in consultation and representatives from Aboriginal organizations to improve its consultation processes (CEC, 2013, Bipole III, p. 27).

The Commission also outlined characteristics for effective consultation, including:

providing information that is comprehensive but not overwhelming, offering a dependable and rational methodology, effectively summarizing technical details and fairly synthesizing information from other sources such as ATK, involving stakeholders earlier rather than in a reactive way, being inclusive of all views and communities, integrating different kinds of knowledge rather than fragmenting information into discipline-defined silos, having a process that achieves goals, and having clear norms of respect in all interactions. – CEC, 2013, Bipole III, p. 26

4.1.3 Manitoba-Minnesota Transmission Line

The Manitoba-Minnesota Transmission Project (MMTP) is anticipated to be a 213km transmission line, running from the northwest of Winnipeg to the United States border in southwestern Manitoba (MH, 2015, MMTP EIS, p. 2-1). As previously stated, the First Nations and Métis Engagement Process (FNMEP) was created in response to feedback heard directly from the Bipole III CEC Hearings, as well as concerns voiced by First Nations and Métis (MH, 2015, MMTP EIS, p. 4-3).

4.1.3.1 Engagement Description

For the MMTP, Manitoba Hydro developed an engagement process for First Nations and Métis communities that was different from its Public Engagement Process (PEP). The FNMEP had some of the same goals as the PEP. These goals included sharing project information, gathering project related concerns and feedback, and reviewing potential mitigation measures (MH, 2015, MMTP EIS, p. 4-2). Beyond these common goals, the FNMEP had the additional goals to build and strengthen relationships between Manitoba Hydro and First Nations and Métis communities,

and to “provide opportunities for First Nation and Métis to have meaningful input and contributions” (MH, 2015, MMTP EIS, p. 4-2). The FNMEP was said to have been based on several guiding principles, including developing an appreciation for First Nation and Métis cultures and worldviews, and collaboratively determining engagement approaches to address concerns and build relationships (MH, 2015, MMTP EIS, p. 4-2). Unlike Bipole III, the FNMEP specifically identified the unique status of Métis people in the province and acknowledged the MMF as the governance body that facilitates engagement between Manitoba Hydro and Métis people in the province (MH, 2015, MMTP EIS, p. 4-1). When determining potential participants for the FNMEP, Manitoba Hydro considered several factors. Communities located in proximity to the study area were invited to participate, which was the same as for Bipole III. As well, invitations were sent to any community with an interest in the project, and signatories to or communities located within Treaty 1 area (MH, 2015, MMTP EIS, p. 4-7). Aboriginal organizations that had interests or mandates within or related to the project area were also invited to participate (MH, 2015, MMTP EIS, p. 4-7). Manitoba Hydro has stated that throughout the process, they endeavored to communicate with First Nations, the MMF, and Aboriginal organizations in clear and timely ways, and that this communication would continue into the future as the project progressed (MH, 2015, MMTP EIS, p. 4-13). In total, 14 First Nations, the MMF, and four Aboriginal organizations participated in the FNMEP (MH, 2015, MMTP EIS, p. 4-8).

4.1.3.2 Engagement Purposes

The pre-engagement round of the FNMEP took place in August 2013, in which First Nations, the MMF, and Aboriginal organizations were asked how they would like to be engaged so that the subsequent engagement rounds could be tailored accordingly (MH, 2015, MMTP EIS, p. 4-1).

Round 1 engagement aimed to obtain feedback on routing and border crossing options proposed

by Manitoba Hydro (MH, 2015, MMTP EIS, p. 4-5). In Round 2, Manitoba Hydro presented the preferred route and border crossing with alternative route options to First Nations, the MMF, and Aboriginal organizations (MH, 2015, MMTP EIS, p. 4-5). Between Rounds 2 and 3, a border crossing modification took place, and Manitoba Hydro notified all the communities and organizations and took feedback on the route modification (MH, 2015, MMTP EIS, p. 4-5). In Round 3, Manitoba Hydro presented the final preferred route, and sought feedback on any further adjustments before filing the EIS (MH, 2015, MMTP EIS, p. 4-5).

4.1.3. Engagement Approaches

In tailoring the FNMEP, Manitoba Hydro created checklists about all engagement opportunities, ATK proposal templates for self-directed ATK studies, and plain language documents of project-related information (MH, 2015, MMTP EIS, p. 4-4). The pre-engagement round was comprised of letters and phone calls to leadership in communities (MH, 2015, MMTP EIS, p. 4-4). All three rounds of the engagement process included meetings with community leadership, open houses, and information sessions (MH, 2015, MMTP EIS, p. 4-5). As the EA progressed, additional engagement methods were used, including routing workshops with communities to learn about site specific concerns, stakeholder workshops to identify project issues and concerns, and project site tours to investigate important sites and alternative routes (MH, 2015, MMTP EIS, p. 4-10). Manitoba Hydro returned information and knowledge to participants to confirm interpretation and allow participants to review and revise their information (MH, 2015, MMTP EIS, p. 4-10). Information sharing took place in a number of ways and included letters, handouts and comment sheets, newsletters, advertisements in newspapers, project posters, a project webpage, and a plain language EIS summary (MH, 2015, MMTP EIS, p. 4-10 to 18).

Manitoba Hydro also provided funding to all First Nations to hire a community coordinator to act as a contact person between Manitoba Hydro and the First Nations' leadership (MH, 2015, MMTP EIS, p. 4-9). In addition, Hydro offered funding to the First Nations and the MMF to conduct self-directed ATK or land-use and occupancy studies (MH, 2015, MMTP EIS, p. 4-9). Throughout all three stages of engagement, First Nations communities and the MMF were conducting ATK studies if they chose to participate (MH, 2015, MMTP EIS, p. 4-6). The ATK studies were incorporated into the EIS if they were submitted prior to the regulatory filing (MH, 2015, MMTP EIS, p. 4-6). Several communities and the MMF had not submitted their ATK reports prior to regulatory filing, but Manitoba Hydro indicated that these studies will help inform the project's Environmental Protection Program (EPP).

Each First Nation, the MMF, and all Aboriginal organizations had a section within the EIS which identified and explained their feedback and concerns. Manitoba Hydro then provided an explanation of how these concerns were taken into account and how they influenced various aspects of the project. Beyond these summaries, Manitoba Hydro also provided tables summarizing engagement activities with all First Nations, the MMF, and Aboriginal organizations, as well as summaries of concerns and comments heard throughout the FNMEP (MH, 2015, MMTP EIS, Appendix 4A, 4B).

One interview participant noted the early engagement approaches used in the MMTP:

“...for MMTP, engagement has taken place where Hydro has involved the communities at the very early stage, which is different from a lot of projects so this one is kind of remapping engagement if you will, which I think is really positive.” – Participant 2

The project has been submitted to the department of Manitoba Conservation and Water Stewardship for review. On December 31, 2015, the Minister of Conservation and Water Stewardship requested that the Clean Environment Commission hold public hearings to review

the MMTP (Manitoba Clean Environment Commission, 2017). Hearings are expected to take place in May 2017 in the Winnipeg and La Broquerie areas.

4.1.4 Engagement Approaches – Other Cases

Although the focus of this research was Indigenous engagement in Manitoba Hydro proposals, two interview participants chose to share experiences in EA beyond hydroelectric projects. These experiences are both instructive and informative, and provide an understanding of engagement in EA by other corporations and organizations in the province. The following section summarizes the four main ideas voiced by these participants.

Not all engagement is based on collaboration and dialogue. Some engagement is:

“...By way of legal challenge through the court system. I think that’s meaningful, and I think it’s important. I wouldn’t consider that to be problematic in any way but it’s part of a well-designed engagement process where the opportunity exists for legal challenge.” – Participant 3

The large scale of many Manitoba Hydro projects means that many engagement activities take place strictly with community leadership or at an impersonal level. However, some engagement activities take place on a smaller scale. One participant was involved in:

“...engagement with different policy communities. So we did ... focus groups and one-on-one interviews primarily for the engagement process to get a sense from individuals and groups on what they are, what they see as good practice, good governance.” – Participant 4

In addition, in recent decades Manitoba Hydro has demonstrated other, seemingly more collaborative approaches to resource development in Indigenous communities. For example, the Wuskwatim Generating Station and Keeyask Generating Station were both developed as partnerships with Indigenous communities near the dam sites. The engagement for the Keeyask Generating Station (Keeyask) began as a discussion of a partnership between Manitoba Hydro and Tataskweyak Cree Nation (TCN) regarding developing hydroelectric generation on the

Nelson River at Gull Rapids (Keeyask CEC Hearing, p.29). TCN invited three other Cree Nations to participate in the discussion about developing Keeyask through a partnership agreement by forming the Keeyask Cree Nations (KCNs) (Keeyask CEC Hearing, p.29). From 2000 to 2008, Manitoba Hydro and the KCNs negotiated the terms of the Joint Keeyask Development Agreement, which was signed May 29, 2009 (Keeyask CEC Hearing, p.29-30). This partnership was the basis of the Keeyask EIS, although Manitoba Hydro consulted with other communities that were not located in the immediate proximity of the Keeyask area (Keeyask CEC Hearing, p.34). These partnerships are not without criticism. Some scholars have argued that First Nations will become involved in the process in order to have a say in the decision-making process, but ultimately end up bearing all of the risks and gaining limited benefits from the project (e.g. McLachlan, 2013, p.38).

4.2 Reconceptualizing Indigenous Engagement

The following section presents the results from participant interviews, as well as a review of written documents and testimonies prepared by Indigenous communities and organizations as part of the CEC Hearings for Keeyask and Bipole III. The key themes in the following sections are summarized in Tables 1-3. Many of the themes overlap, and are found in several places throughout the results. These themes touch on basic elements of effective Indigenous engagement, existing challenges, and potential solutions.

4.2.1 Defining Indigenous Engagement

As one of the first interview questions, research participants were asked to provide a definition of Indigenous engagement, or to describe the underlying principles or ideas behind Indigenous engagement. Table 1 provides a summary of the major themes that came out from these questions.

Table 1. Key Elements of Indigenous Engagement

Major Theme	Subtopic/theme
Timing	Early, ongoing
Meaningfulness	Dialogue, relationships, adaptive, transparent
Worldviews	Acknowledgement, recognition, appreciation

Some participants described the state of Indigenous engagement as it is right now, while other participants instead provided a vision for what Indigenous engagement could be. The following sections explore the main themes from Table 1 from these two perspectives.

4.2.1.1 Timing

Almost all participants mentioned time as an important element of Indigenous engagement.

“[Engagement is] being involved in the planning of [a] project [and] being involved in developing the details of the project and monitoring plans. Being involved from step one, engaging them so that they are full participants from the beginning.” – Participant 2

“I think the underlying principles are early, sustained, and post project approval. So it’s ongoing and continues after the fact.” – Participant 3

“I think what’s most important is that it’s started early so they have some say in terms of project design.” – Participant 1

4.2.1.2 Meaningfulness

Time and meaningfulness were two themes that were often discussed together. Echoing the third quote above, some participants stressed the need to initiate participation as early as possible:

“Definitely involvement from day one, in terms of when you have a project, with a defined start date. But I think [it] goes further than that and you make meaningful relationships built on top of the day one.” – Participant 2

“[Engagement requires] being involved in the process at extremely early stages, the very early planning stages of the process. And also it’s a continuous adaptive effort to continue engaging all throughout the entire process.” – Participant 1

Again showing the link between time (early, ongoing) and meaningfulness, some participants mentioned the value of involving Indigenous communities in the planning stages of the engagement process, and a continued role following project approval:

“Adequate Indigenous engagement would require listening and hearing to what is said but before the...substance part is done, you would also have to talk about the procedure.” – Participant 4

“[It’s] more than dialogue. I think it involves application...It’s about the community having a role to play in project management after the project is approved.” – Participant 3

Other participants noted the importance of hearing directly from Indigenous people throughout the process, and ensuring those voices are accurately heard.

“Environmental decision-making is all about relationships with the environment and so an Indigenous engagement process which is adequate would have to...listen to and hear what Indigenous people would have to say.” – Participant 4

“I think transparency too, you need to trust people, and again depending...on where you are, proper representation.” – Participant 5

4.2.1.3 Worldviews

Some of the participants also acknowledged the different worldviews of Indigenous communities and Western science.

“...an adequate Indigenous engagement process would be one that allows for Indigenous worldviews and laws to be heard and to be listened to.” – Participant 4

One participant talked about the need for Western scientific experts to gain a better understanding of Indigenous worldviews:

“Attempting to recognize and appreciate the fact that there’s different worldviews associated with how these projects are viewed. ...I think many of us sort of have been exposed to the Western perspective on environmental assessment [but we also] need to understand it from the Indigenous perspective and their view of the land and the environment and the interaction between all things.” – Participant 1

4.2.2 Challenges to Engagement

Research participants were later asked what they perceive to be the biggest challenges in achieving meaningful engagement. As well, many Indigenous communities and organizations submitted written documents and testimonies as part of the CEC Hearings for Bipole III and Keeyask. While these submissions included a variety of topics, many of them included specific

comments about engagement activities. The concerns voiced by communities about the meaningfulness of Indigenous engagement directly echoed many of the challenges identified by the interview participants. Table 2 provides a summary of the types of challenges, grouped into three main themes and associated subtopics.

Table 2. Major Challenges in Achieving Meaningful Indigenous Engagement

Major Theme	Subtopic/theme
History	Conflict, anger, inequality
Procedure	Timelines, budgets, capacity
Worldviews	Recognition, understanding, interconnectedness, ATK

4.2.2.1 History

Some participants discussed the legacy of poor relationships between resource developers and Indigenous communities, which often hinders meaningful engagement:

“I think in the past, there was a lot of controversy that, you know, has really affected the way people view hydroelectric development in Manitoba. You know there’s a long history having to go to arbitrators for settling and there was a lot of conflict around that. So I think there is a long history of anger that is present there in the communities” – Participant 1

“But in the past there was no engagement...So they have that history always with them and...there are so many expectations from years and years of pent up upset. And resentment. And fear and loathing towards government and proponent” – Participant 2

One written submission noted that existing relationships between Manitoba Hydro and Indigenous communities may dictate how communities are engaged:

“Manitoba Hydro’s approach to aboriginal engagement demonstrates significant challenges and inequities between aboriginal communities in relation to Bipole III. Some impacted aboriginal communities are well supported and engaged because of existing relationships with Manitoba Hydro, while others are not.” – Manitoba Métis Federation, 2013 (Bipole III submission), p.36

4.2.2.2 Procedure

Beyond relationships, several participants mentioned procedural challenges in achieving meaningful engagement with Indigenous communities. One participant noted the difficulty of EA policies that often are too strict to allow for flexibility in the engagement process:

“The policies that structure engagement...because corporations and government are so policy-based and sometimes policies can be a good thing...On the other hand it can be very restrictive.” – Participant 2

Other participants discussed the challenges regarding budgetary concerns, and the tight timelines often set in EA processes that might limit the effectiveness of engagement:

“There are fiscal responsibilities and budgets and timelines you have to follow and I think that hinders a lot of engagement processes.” – Participant 2

“Sometimes schedules are unrealistic and I think that creates conflict because there’s a big push especially with a big organization who tries to push their way through...but there’s an element of due diligence and it’s a process.” – Participant 5

“There isn’t enough time to properly engage communities during an assessment process, so it needs to happen outside EA.” – Participant 3

“I think there are some contextual issues. Like place-based time constraints for going to a community.” – Participant 5

One participant also mentioned that EA procedures are often incapable of accounting for and accommodating political and social heterogeneity in Aboriginal communities, which can create challenges in making the process meaningful:

“You have other cases where proponent comes to town and the community may not even have agreement in the community about if they want (a project) in the town or not...there’s a lot of internal conflict, so I think that there’s a political and social capacity challenge within First Nations communities.” – Participant 3

Additionally, one community noted that Manitoba Hydro lacks formal processes to manage unforeseen impacts on communities:

“If it turns out that there are adverse environmental impacts that affect Aboriginal peoples or groups other than the KCNs, like Pimicikamak, Manitoba Hydro has no

formal process in place to ensure that these impacts are mitigated in a manner that is acceptable to such affected peoples or groups. – Pimicikamak, 2013 (Keeyask submission), p.7

4.2.2.3 Worldviews

Along with being a major theme in defining Indigenous engagement, worldviews was an important theme with respect to engagement challenges. A lack of understanding of Indigenous worldviews and laws from proponents and governments hinders engagement.

“Canadian federal or provincial administrative tribunals have no idea what to do with Indigenous knowledge, they have no idea what to do with Indigenous laws, they have no idea what to do with hearing from Elders, they have no idea what to do, so therefore they ignore it. [The biggest challenge is] non-Indigenous people assuming that they know better and imposing their process and thinking it’s better than the Indigenous process, and the lack of recognition of the fact that Indigenous people and Nations have their own processes and laws and worldviews that must be respected.” – Participant 4

“Fox Lake considers the failure to acknowledge the interconnectedness among projects as a second major flaw.” – Fox Lake Cree Nation, 2013 (Bipole III submission), p.4

“To assess individual parts of an interconnected set of infrastructure or system risks missing the impacts bigger picture, by failing to recognize impacts related to scale and combined effects of the separate parts.” – Peguis First Nation, 2013 (Keeyask submission) p.24

Similarly to challenges in non-Indigenous people understanding Indigenous laws and worldviews, some submissions also commented on the improper use of Aboriginal Traditional Knowledge (ATK):

“Manitoba Hydro has produced an ATK study that its own expert wouldn’t call a ATK study in her own professional opinion, but it has used and continues to use this deeply flawed study to “assess” routing options and impacts on aboriginal communities.” – Manitoba Métis Federation, 2013 (Bipole III submission), p.13

“The thresholds or benchmarks used to measure significance of effects in the EIS did not include Aboriginal traditional knowledge or perspectives. They are strictly informed by Western Science.” – Pimicikamak, 2013 (Keeyask submission), p.10

4.2.3 Overcoming Challenges

After discussing challenges to achieving meaningful engagement, participants provided comments on how to overcome these challenges. Some comments suggested changing procedural elements, while others focused on larger shifts in relationships and mutual understanding. Table 3 summarizes the key themes participants identified in reconceptualizing Indigenous engagement.

Table 3. Key Themes for Reconceptualizing Engagement

Theme	Subtopic
Adequate Time	Capacity, meaningful
Change in Approach	Broader planning, holistic, Indigenous-led
Relationships	Worldviews, addressing history
Representation	Inclusion in process, use of ATK

4.2.3.1 Adequate Time

Echoing earlier comments about the importance of timeliness, several participants discussed the importance of giving Indigenous communities more time for engagement, to address the issues and build capacity within communities.

“I think that all of the engagement processes need time because the communities need to build capacity to work together and communicate together. I think that and I hope that the process of engagement continues to be a lengthy one.” – Participant 1

“I think that’s really why you want to start early, early enough to get a handle on what the issues are, early enough to get an understanding or reception...sometimes even before you have things laid out for your project or when you start that that’s when you need to start talking to people.” – Participant 5

“I think people in the communities want that interpersonal communication, and I think they respond well to that interpersonal communication...So I think those who are interested, creating an opportunity for them to learn more and for them to interact with you.” – Participant 5

One participant also noted that the strict timelines in EA might need to be reconsidered:

“Not having so many timelines. So that the process can be more meaningful...So that it involves everybody over a longer period of time.” – Participant 2

4.2.3.2 Change in Approach

Some participants proposed changes to the way Indigenous engagement takes place that would make the process more meaningful. One participant stressed broader planning initiatives to improve engagement activities and the EA process overall:

“In the solution there comes in the land-use planning. So...there shouldn't be projects being proposed in any region where we don't have completed land-use plans.” – Participant 3

“I think a lot of the changes that need to happen need to happen outside of EA and I think sort of strengthening regional planning, regional governance so the EA can do its job in predicting and mitigating the impacts of a project...I think these early engagement regional strategies will help pave the way for you know, less conflict.” – Participant 3

Another participant mentioned the need to change the way the EA process is viewed

“It's got to be a shift in social thinking and cultural thinking...maybe an end to piecemeal thinking as a tool...if the thinking was more holistic in that we could spend very large sums of money now to get this all done properly then maybe we wouldn't run into the same problems over and over again.” – Participant 2

Fox Lake Cree Nation mentioned the development of a community-led Environmental Protection Plan for the Bipole III project as a tool to improve monitoring activities.

“Fox Lake has begun the process to develop a comprehensive Environmental Protection Plan...consistent with Fox Lake's values...FL anticipates that once this program is in place, the community will be more directly involved in solutions to environmental problems since they are much more familiar with the local environment and have a wealth of experience and knowledge on past problems. – Fox Lake Cree Nation, 2013 (Bipole III submission), p. 7-8

One participant also mentioned that improving the EA process overall might involve:

“...more independent or parallel EAs led by First Nations communities.” – Participant 3

4.2.3.3 Relationships

“I think a recognition is also needed that, when you're talking about the environment within an Indigenous perspective, you are not just talking about the environment. You are talking about everything because everything is related.” – Participant 4

One participant spoke about the relationships between Indigenous people and the rest of Canada, and how a shift in this relationship is needed for truly meaningful engagement.

“And if the federal government, who is now preaching about...working with Indigenous people on a nation to nation basis...then a first step would have to be that they would have to start going to the institutions of Indigenous people...They’re going to have to start going into those circles and those environments...and also learning Indigenous languages.” – Participant 4

Related back to the challenge of history, one participant noted the need to overcome the barriers of damaged or broken relationships.

“I think maybe if there are mechanisms to kind of deal with history better than it would be easier to maybe get that out of the way prior to this consultation stuff.” – Participant 5

4.2.3.4 Representation

Several Indigenous communities and organizations spoke about the need for greater Indigenous representation throughout the EA process, not just in designated Indigenous engagement activities.

“In regions with significant Aboriginal populations, there ought to be greater Aboriginal representation in environmental decision-making forums such as those associated with environmental assessment.” – Peguis First Nation, 2013 (Keeyask submission), p.26

“It is important for Swan Lake First Nation to be involved in the Environmental Protection Plan at any location within our traditional territory.” – Swan Lake First Nation, 2012 (Bipole III submission), p.2

“Aboriginal groups should be involved early and thoroughly in the assessment process...When thought is being given to how to structure the environmental assessment process in the first place...Manitoba should be engaging with First Nations.” – Peguis First Nation, 2013 (Keeyask submission), p.27

“Aboriginal groups should be engaged and actively involved at all stages, from the normative (what should be done), strategic (what can be done) and operational (what will be done) stages for assessment.” – Peguis First Nation, 2013 (Keeyask submission), p. 27

Some communities also discussed how ATK should be incorporated into all aspects of projects.

“To help us achieve a balance, it is important for York Factory to incorporate our wisdom and Traditional Knowledge – our *Inninesewin* – and Customary Law principles into all

aspects of Bipole III Project.” – York Factory First Nation, 2012 (Bipole III submission), p.8

“ATK must be considered FIRST in order to guide the technical science work. In this way, Western Science will be coordinated and harmonized with ATK in the design, implementation and monitoring of the Keeyask project.” – Kaweechihwasihk Kay-tay-tisuk, Inc., 2014 (Keeyask submission), p.1

“The EIS must contain meaningful explanations of the identification, consideration or application of Aboriginal Traditional Knowledge (ATK).” – York Factory First Nation, 2012 (Bipole III submission), p.10

5. DISCUSSION

5.1 Manitoba Hydro's Engagement Process

The results in Section 4.1 shed light on the evolving nature of Manitoba Hydro's engagement process with Indigenous people. Between Bipole III and the Manitoba-Minnesota Transmission Project (MMTP), Manitoba Hydro made several changes to its engagement process to tailor it to Indigenous concerns and feedback. The most significant change was the creation of the First Nations and Métis Engagement Process (FNMEP), a process that was distinctly separate from the broader Public Engagement Process (PEP). This allowed Manitoba Hydro to create a process that would address concerns from Indigenous communities as separate and distinct from broader public concerns. Another positive aspect of the FNMEP was the pre-engagement round, in which First Nations, the Manitoba Métis Federation (MMF), and Aboriginal organizations could provide feedback on how they wanted engagement to take place. This allowed the process to be more meaningful and beneficial to communities from the outset.

Despite these beneficial changes, there are still significant gaps in Manitoba Hydro's approach to Indigenous engagement. One of the biggest deficits is the way the FNMEP was developed prior to implementation. Following the Bipole III CEC Hearings, the Commission recommended that Manitoba Hydro consult with Aboriginal organizations in tailoring engagement for Indigenous people. However, in the EIS there is no evidence of this input beyond Manitoba Hydro's statement that the FNMEP for the MMTP was created in response to concerns from First Nations and Métis. While Manitoba Hydro does state that the FNMEP was developed based on feedback from Bipole III, it is unclear where this feedback was used. As well, despite CEC comments, Manitoba Hydro did not create a distinct engagement process for the MMF, which is different

from many First Nations by its large geographic extent and population distribution, and may require different engagement methods (CEC, 2013, Bipole III, p. 26).

One challenge in comparing these projects is their geographic extents. Since the majority of hydroelectric development has taken place in the northern portion of the province, communities in the north and south have very different relationships with Manitoba Hydro. As the CEC stated, the legacy of mistrust in Manitoba Hydro among communities may have limited the effectiveness of the engagement for Bipole III, particularly for northern communities.

Conversely, communities in the south have experienced fewer adverse effects from hydroelectric development, and therefore might be more receptive to engagement from proponents such as Manitoba Hydro. There are also significant differences in the physical environment. The southern part of Manitoba is highly developed and previously disturbed, so the MMTP will cross less undisturbed land than Bipole III. As well, Bipole III is over six times the length of the MMTP, and therefore affects a larger geographic area. Since 26 First Nations participated in Bipole III engagement, versus the 14 First Nations for the MMTP, the breadth of concerns is likely to be larger for Bipole III and the project could cause more controversy.

Regardless of the differences, the engagement for the MMTP shows improvement from Bipole III. With the upcoming CEC Hearings for the MMTP, hopefully more recommendations will be provided to continue to improve Manitoba Hydro's engagement process.

5.2 Reconceptualizing Indigenous Engagement

The results from the interviews and document review supplement much of what is written about Indigenous engagement in Canada. One area that warrants discussion is the definition of Indigenous engagement. Like other terms regarding participatory activities in EA, the definition

of Indigenous engagement varies across the literature. Even amongst the participants, there was a variety of themes and components identified as being important within Indigenous engagement.

Some participants did not speak about what Indigenous engagement is right now, but rather what it could be. One participant used the term “adequate” when describing what Indigenous engagement could be. This appears to be analogous to the concept of “meaningful public participation”, which has received significant discussion in the EA literature. Stewart and Sinclair (2007) identified eight elements for meaningful public participation based upon interviews with EA practitioners. Some of these themes, such as fair notice and time, relate closely to the participant-identified themes of early and ongoing engagement (Stewart & Sinclair, 2007). The broad theme of meaningful that was identified by the participants, which includes dialogue and adaptive processes, is closely linked to Stewart and Sinclair’s (2007) ideas of fair and open dialogue, and multiple and appropriate methods of engagement. With all of that said, since Stewart and Sinclair’s model is not based on Indigenous engagement or aspirations, their model does not fully work for creating more meaningful engagement processes.

The biggest difference between meaningful public participation and meaningful Indigenous engagement can be understood in terms of worldviews. The results clearly show the importance of recognizing, acknowledging, and appreciating different worldviews in creating adequate engagement processes. Some scholars also noted the need to be receptive to Indigenous knowledge and ways of knowing (e.g. Mulvihill & Baker, 2001). A failure to acknowledge and accommodate Indigenous worldviews risks perpetuating colonial narratives (Booth & Skelton, 2011), and does not allow ATK to have equal value within the EA process. The challenge with using ATK, although several Indigenous communities stressed its importance, is that the EA

process was created under an Western ideology that often limits the expression of Indigenous worldviews and knowledge (Gibson et al., 2015).

Other challenges identified by the participants and communities are similar to those identified in the literature. Udofia et al. (2016) noted that as the EA process becomes more streamlined, it can limit Indigenous capacity to participate. If communities are not given adequate time to prepare and coordinate, then engagement will be less effective. Similarly, the results suggest that a shortcoming is that EA processes often fail to account for differing values and concerns within Indigenous communities. Additionally, particularly in areas with substantial resource development, constant engagement activities as the result of regulatory requirements can quickly lead to consultation fatigue (Udofia et al., 2016). This was mentioned by the CEC as a potential cause of low participation numbers in northern communities. One potential solution to the challenge of consultation fatigue is to set up broader, regional planning initiatives, as was mentioned by one of the participants. By addressing broader concerns outside of a project-based EA, these recurring challenges can be dealt with, and EA can address the more specific issues of the development (Udofia et al., 2016).

One element identified by participants that runs contrary to the trends of EA legislation relates to timelines. With changes to EA legislation, such as was the case with CEAA 2012, EA is now faced with tighter timelines for completion (Gibson, 2012). However, some participants and scholars (e.g. Gibson, 2012, Udofia et al., 2016) noted that participation takes time in order to build capacity within communities and to make the process more meaningful.

The aspect of Indigenous engagement that has received the least attention in the academic literature is how to overcome the challenges and shortcomings of existing engagement processes. In answering this question, it is pertinent to listen to the individuals and communities who are impacted by developments and letting them determine how engagement should look. This sentiment was expressed by several participants and communities in several ways. This might look like independent monitoring programs or parallel EA processes, such as the EA framework developed by the Mohawk Council of Akwesasne (Mohawk Council of Akwesasne, n.d.). Several communities, such as Peguis First Nation and Swan Lake First Nation, stressed the involvement of and representation by Indigenous people throughout the EA process, including at the planning, decision-making, and monitoring and follow-up stages. Similarly, scholars have argued that Indigenous people need to be involved as early as the policy and planning stages, prior to a project EA taking place (Udofia et al., 2016). Research in other parts of Canada have echoed sentiments of re-imagining the process, and allowing Indigenous people to decide how they would best like to be engaged in a particular EA (Booth & Skelton, 2011).

The range of how Indigenous people would like to be included is not static, and will vary widely both spatially and temporally. For example, a multi-nation group of Indigenous elders affiliated with the AMC has produced a document known as the *Great Binding Law* (2015). This document is just one example of how Indigenous people may want to move forward in terms of EA and engagement activities. By listening to the people who are affected by EA decisions, and taking guidance from them on the most appropriate methods of engagement, hopefully the process overall can become more meaningful and beneficial for all parties.

6. CONCLUSION

There is no single approach to Indigenous engagement that will work for all communities. Manitoba Hydro's approach, although it has improved over the last several years, still falls short of what many experts and communities view as meaningful engagement. Amongst experts, communities, and academic literature, there is no single, universally agreed upon element that defines Indigenous engagement. The themes that emerged in defining engagement, rather than coming together to form one definition, can be used to create a broad framework under which meaningful engagement activities should fall. The challenges related to engagement range from relatively simple procedural issues, to more complex and nuanced issues of historical inequities and clashing worldviews.

In overcoming these challenges, there are several approaches that can be undertaken. Some, such as providing sufficient time, require changing the laws and policy that guide assessment and engagement activities. However, the majority of recommendations made for improving Indigenous engagement require larger shifts in approach and understanding. Allowing for greater Indigenous representation in the process, or Indigenous-led initiatives, are interim solutions until the EA community can figure out how to effectively use Aboriginal Traditional Knowledge (ATK), and how to acknowledge and recognize Indigenous laws and worldviews. This process cannot be done without the input and guidance from Indigenous people. In order to engage Indigenous communities in EA in a truly meaningful way, they must be the ones to dictate the process. Moving forward in this way is a step in reconciling relationships, and will improve the effectiveness and legitimacy of EA overall.

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Appendix A – Interview Questions

1. Which projects/developments have you been involved in?
Prompt: Was this a transmission line? Generating station? Pipeline?
2. How have you been involved in Indigenous engagement in environmental assessment?
Prompt: Have you been directly involved? Have you worked with people who were directly involved?
3. What is Indigenous engagement?
4. What are the underlying principles or ideas behind Indigenous engagement?
Prompt: How does it relate to environmental assessment?
5. In the projects you've been involved in, how did Indigenous engagement take place?
Prompt: Was the engagement initiated by the proponent? The government? Did engagement come at the request of the community?
Prompt: What were the methods used?
6. What was the role of Indigenous/Traditional Knowledge in the engagement?
Prompt: Was it collected by the proponent or directly contributed by the communities?
Prompt: Was it incorporated into the final outcome, and if so, in what way?
7. In your opinion, what were the strengths and weaknesses of this engagement process?
8. Are there other things you've heard from Indigenous communities regarding that engagement process, or Indigenous engagement in general? If so, what?
Prompt: Did they have any recommendations for the process?
9. In general, what do you think the biggest barrier is to achieving meaningful Indigenous engagement? This can be at a proponent or government level.
10. Do you think this barrier can be overcome? If so, how?
11. Where do you see Environmental Assessment, and Indigenous engagement, going in the future?
12. Do you think that this trajectory will address some of the issues and barriers that you currently see in the process?