



O-PIPON-NA-PIWIN CREE NATION



April 13, 2021

Open Letter to:
Manitoba Hydro customers

From:
O-Pipon-Na-Piwin Cree Nation
Tataskweyak Cree Nation



March 23, 2021

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Tataskweyak Cree Nation

In the mid-1970s, Manitoba Hydro built the Churchill River Diversion project in our home territories in northern Manitoba. They poured cement in the water, they blasted a nine-km channel through the forest, and they forcibly relocated an entire community.

The massive project diverts 85 percent of the flow of the second largest river in Manitoba. It also floods 675 square kilometres of boreal forest and largely dries up a 415-km stretch of the Churchill River (see map and list of impacts below).

The ecological, economic and cultural damage is severe, ongoing and heartbreaking. Words can never express the loss and grief our communities have endured and continue to endure.

The Diversion was built without our consent and against our wishes. The Manitoba Government issued a licence for the project in violation of our best interests. We had no say.

What Manitoba did to us was flat-out wrong. That licence authorized the sacrifice of our well-being for the sake of southern interests.

As we describe below, once the water had gone up, the province then allowed Hydro to raise the water even further which put even more strain on the already crippled ecosystems.

We wish we could say that government attitudes and practices have changed since the '70s, but we still have no meaningful say in how the Churchill River Diversion is operated. We have urged Manitoba to require Hydro to take specific steps to ease up on their relentless assault on our waterways. **Our requests have been ignored.**

The Manitoba Government now faces a clear choice with respect to the licence for the Diversion. They can continue to bulldoze our concerns aside and double down on past mistakes, or they can honour our right to meaningful involvement in decision making.

They can cement the status quo, or they can cooperate with us on the specific suggestions for change that we discuss below.

We cannot accept the ongoing damage. We cannot accept the outdated attitudes. We will not just sit back and allow more business as usual, because business as usual is destroying us. We need change.

We call on you, Manitobans, to demand that your government give us a meaningful say in what happens with the waterways that had sustained our communities for countless generations. We need change and we need you to work with us to achieve that.

BACKGROUND

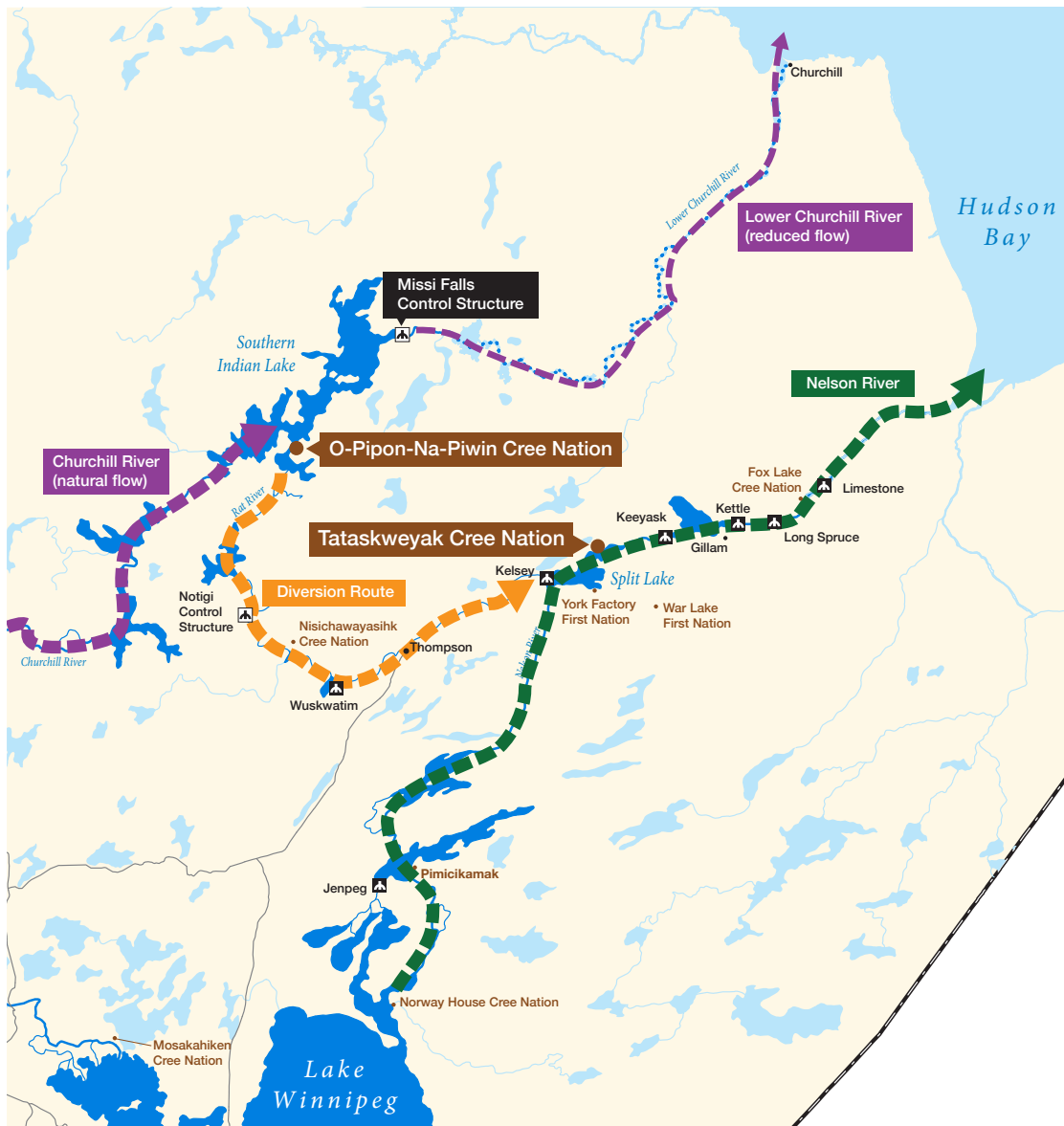
The Churchill River enters Northern Manitoba from Saskatchewan and flows eastward, emptying into Hudson Bay at the town of Churchill.

For size comparison, the average flow of the Churchill, upstream of the diversion, is about five times the average flow of the Red River.

Instead of building dams on the Churchill, Manitoba Hydro determined it would be more economical to divert 85 percent of the flow of the Churchill southward toward the huge dams on the Nelson River. This massive diversion was achieved, in part, by constructing the Missi Falls Control Structure at the outlet of Southern Indian Lake. This lake—the fourth largest in Manitoba—is a 150 km-long widening of the Churchill River.

The Missi Falls Control Structure (a dam, but with no generating capacity) raises the level of Southern Indian Lake by about three metres on average. The raised lake now spills southward through a nine-km man-made channel into the Rat-Burntwood River system which eventually empties into the Nelson River at Split Lake. The Notigi Control Structure on the Rat River controls outflows down the diversion route.

In the 1960s, the Manitoba Government hired H.E. Duckworth—vice president of the University of Manitoba—to study the diversion plan. In a 1967 report, Duckworth and his team of experts recommended that the province try to achieve the diversion without raising the level of Southern Indian Lake. They said the harm to the inhabitants of South Indian Lake would be “unjust,” and “unworthy of the Province, although it might be in keeping with much past treatment of the Indians.” Alternatives to the Diversion were ignored.



RE-ENGINEERED REALITY

The Diversion has drastically re-engineered major waterways, causing widespread, ongoing and unnecessary harm. Some of the major impacts include:

Flooding

- » Permanent flooding of between 675 and 837 square km (figures vary), including raising the level of Southern Indian Lake by an average of 3 m (10 feet);
- » Disastrous flushes of water down the Lower Churchill at high water times (these sudden inundations of up to 50 percent more water than the highest flows recorded in the 15 years prior to Diversion—often during spring ice break-up—scour the riverbed, batter shorelines, flood cabins, inundate riparian habitat, and temporarily raise levels of lakes on the river system by as much as 5.8 m (19 feet));

Dewatering

- » Major reduction of water flows and aquatic habitat on the Lower Churchill River, downstream of Missi Falls (a 415-km stretch);

Fish and wildlife

- » The near extinction of a distinct and culturally vital species of Sturgeon;
- » A rise in fish mercury to levels not fit for human consumption;
- » Decimation of the most productive inland northern fishery (Southern Indian Lake was home to the third largest Lake Whitefish fishery in North America. In the decade prior to Diversion, the annual catch averaged about 400,000 kg; in the past decade it was less than a tenth of that.);
- » Beaver and muskrat are killed by flooding and unpredictable fluctuations;



Hundreds of kilometres of shoreline on Southern Indian Lake are collapsing. Manitoba Hydro is legally required to “fully mitigate any effects of the altered levels and flows.”

Split Lake

- » Massive discharges of sediment into Split Lake choke fish habitat, killing the fishery in that area;

Shoreline erosion

- » Unnaturally large range of water levels on Southern Indian Lake and Split Lake, contributing to excessive shoreline erosion, obliteration of many beaches, and loss of aquatic habitat;
- » Debris-strewn shorelines from Southern Indian Lake to Split Lake;
- » Disappearance of hundreds of islands due to flooding and erosion on Southern Indian Lake;
- » Wood debris from collapsing shorelines gets caught in nets, and half-submerged “dead heads” create a hazard for boaters;

Relocation and Sacred Sites

- » Forced relocation of the community of South Indian Lake and imposed burning of the old village; and
- » Inundation of hundreds of documented culturally significant sites, including graves, on Southern Indian Lake.

The ongoing harm to waterways, wildlife and our communities is beyond words. And the full list of impacts is much longer.

Various agreements have been signed and compensation payments made in acknowledgement of some of the harm done. All of the agreements were signed only after the water went up and in most cases only after great struggle on the part of Indigenous peoples in the face of Hydro and government efforts to downplay damages, minimize their responsibilities and delay action. Despite the agreements, fairness, respect, honour and reconciliation remain a distant hope.



An island in Southern Indian Lake eroding away.

TCN continues to study Sturgeon on the Lower Churchill.



De-watered riverbed where the Little Churchill River enters the Lower Churchill.



The same area during a high water period.

WHO LETS THIS HAPPEN?

In 1973, the Manitoba Government issued an Interim Licence under the *Water Power Act* that gave Manitoba Hydro permission to build Churchill River Diversion. Construction was completed in 1976.

The *Water Power Act* is a provincial law by which the Manitoba Government asserts the right to unilaterally decide how waters in the province are allocated. It also sets the rental fees paid to the province for use of waters.

Much has changed since 1973 when the Interim Licence was granted. Much has not.

The *Water Power Act* contemplates the government issuing a final licence once a project is complete and operating. The licence is then good for 50 years from completion of the project. Manitoba has not yet issued a Final Licence for Churchill River Diversion, 44 years after completion of the project.

ANNUAL DEVIATIONS ADD INSULT AND MORE INJURY

Shortly after completing Churchill River Diversion, Manitoba Hydro requested and received permission to deviate from the limitations on lake levels and water flows

in the Interim Licence. In 1986, the altered and expanded water regime was formalized as the Augmented Flow Program (AFP). The AFP “deviations” from the Interim Licence allow Hydro to raise Southern Indian Lake an extra six inches, lower it an extra foot, and draw the lake down by 4.5 feet annually, instead of the 2-foot annual limit in the Interim Licence. These are major changes from the 1973 licence and they have major impacts, all contributing to the destruction of Southern Indian Lake, as outlined and pictured above.

Hydro requests and receives permission for these deviations annually. In recent years, the permission form letter is signed by an Assistant Deputy Minister. First Nations have no say.

A civil servant in Winnipeg has more control over the waterways in our territories than we do. As far as we know, neither this person, nor the minister responsible, have visited the waterways they control.

What is the point of a licence if the government can make major changes to it with no legal requirements for any process, and if there are no penalties for violating the licence?

The annual AFP permission letter includes the condition that Hydro “fully mitigate any effects of the altered levels and flows.” In reality, mitigation efforts are entirely inadequate and often ignore the wishes of the communities.



The Missi Falls Control Structure during a sudden and extreme release of water down the Lower Churchill, June 2020. Photo courtesy of Michael Tyas / Wa Ni Ska Tan

DECISION TIME

For reasons that are not clear to us, Manitoba may finally be prepared to issue a Final Licence for Churchill River Diversion, 44 years after the project became operational (and over 16 years since the government-appointed Clean Environment Commission recommended it be done). This licence would not start a new 50-year licensing period when issued. Rather, it would remain in effect until 2026, 50 years from the completion of construction. Hydro can apply for the licence to be renewed in 2026.

Manitoba Hydro has requested that the Augmented Flow Program deviations be included in the Final Licence and that no changes be made to the existing Diversion water regime, which includes AFP. Hydro wants to maintain the status quo that is destroying our waterways. Based on indications to date, we are concerned that Manitoba will indeed grant Hydro's wish.

Hydro wants no changes to the water regime while we demand significant changes. The provincial government needs to decide which it will be.

In 2009, the province initiated what they classified as a formal consultation process with our First Nations in relation to issuance of a Final Licence for the Diversion. The Canadian Constitution requires a consultation and accommodation process when government action may impact Indigenous rights. Our First Nations insist that this process is not only incomplete but that it has yet to actually start in any meaningful way. Despite this, the provincial consultation team has essentially closed the door on consultation. We understand they have submitted their consultation report to the minister responsible for Water Power Act licensing and that the minister will make a licensing decision any day now.

We oppose issuance of a Final Licence for Churchill River Diversion because Manitoba and Manitoba Hydro have not honoured their obligations to us.

We never wanted Churchill River Diversion. It should not exist. The water should still be free to flow as it is meant to flow. The fish should still be free to spawn where they are meant to spawn. Our beloved homelands should not be sacrificed. But we are not demanding that Churchill River Diversion be dismantled; only that damages be addressed and that we have a meaningful say in how the Diversion is operated. We look forward to a discussion that takes our input seriously.

Tataskweyak Cree Nation

Members: 4,000

Main settlement: Split Lake, located 140 km NE of Thompson.

Territory: TCN territory includes part of the Nelson River, part of the Lower Churchill River and part of the diversion route.

Contact: Councillor Robert Spence

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SOLUTIONS

Our First Nations are weighing legal options. In addition to the Canadian courts, we need you, the court of public opinion, to weigh in as well.

Our First Nations recognize that each Nation is impacted in different ways, and therefore specific accommodation will differ. While further consultation and study are essential, the demands of our two communities include:

1. an immediate suspension of the annual Augmented Flow Program deviations (this would reduce annual fluctuations on Southern Indian Lake);
2. higher water flows down the Lower Churchill, especially during Sturgeon spawning times;
3. measures to ensure no massive unnatural flushes of water down the Lower Churchill;
4. funding for our ongoing hydrology and biology work to determine a water regime that would improve the chances for Lake Whitefish and Sturgeon;
5. full mitigation of CRD impacts including measures to support recovery of the Southern Indian Lake fishery;
6. substantial penalties for licence violations;
7. Free, Prior and Informed Consent of effected First Nations with respect to any future licence alterations;
8. meaningful involvement of First Nations in decision making about Churchill River Diversion operations; and
9. payment of water use rental fees to affected communities rather than to the province (according to the Water Power Act, Hydro currently pays the province water use rental fees).

In the '70s, we had no say. But times have changed, whether the government realizes it or not. We will have a say this time. We demand change. We oppose issuance of a Final Licence for Churchill River Diversion at this time. And we invite Manitobans, and all Canadians, to stand with us.

O-Pipon-Na-Piwin Cree Nation

Members: 1,700

Main settlement: South Indian Lake, located 130 km by air NW of Thompson.

Territory: OPCN territory includes all of Southern Indian Lake, part of the Lower Churchill River & a small part of the diversion route.

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