

**Agreement for a Protocol for the Protection of Heritage Resources and
Aboriginal Human Remains Related to the Wuskwatim Generating
Project, dated August 11, 2006**

B E T W E E N :

**Her Majesty the Queen in right of the Province of
Manitoba, as represented by the Minister of Culture,
Heritage and Tourism**

("Manitoba")

- and -

Nisichawayasihk Cree Nation

("NCN")

- and -

**5022649 Manitoba Ltd. (the General Partner of the Wuskwatim
Power Limited Partnership on behalf of the Wuskwatim Power
Limited Partnership)**

(the "Partnership")

Whereas:

- A. It is of vital importance to provide for the protection of heritage resources and to achieve *Kwayaskonikiwin* (reconciliation) in respect of heritage resources that may be found, discovered or disturbed during construction activity associated with the building of the Wuskwatim Generating Station (the "Wuskwatim Project") and the operation of the project following construction.
- B. On May 12, 2005, the Honourable Eric Robinson, Minister of Culture, Heritage and Tourism of Manitoba and Chief Jerry Primrose of NCN signed an "Agreement in Principle to develop a Memorandum of Understanding on a Heritage Resources Agreement". The Agreement in Principle contemplated the development of a "NCN-Manitoba Heritage Resources Agreement" to address heritage protection in the entire Nelson House Resource Management Area.

- C. The May 12, 2005 AIP also recognized that approvals and licences related to the Wuskwatim Project would be required, and construction would be scheduled to start, prior to the completion of the NCN-Manitoba Heritage Resources Agreement and therefore also contemplated the development of a "Protocol for the Protection of Heritage Resources related to the Wuskwatim Project" as an interim measure to be superseded by the NCN-Manitoba Heritage Resources Agreement when completed.
- D. Under the Environment Act Licence issued to the Partnership for the Wuskwatim Project, dated June 21, 2006, the Partnership is required to develop and submit to the Minister of Conservation of Manitoba various environmental protection plans in respect of the Wuskwatim Project,
- E. The Partnership has developed and submitted to the Minister of Conservation a Heritage Resources Protection Plan as an element of its environmental protection plans. A copy of the Heritage Resources Protection Plan is attached hereto as Schedule "A".
- F. The Heritage Resources Protection Plan has been developed collaboratively by the Partnership and NCN, guided by *The Heritage Resources Act* (Manitoba), as well as by *Ethinesewin* (traditional knowledge, including the collective wisdom of *Nisichawayasihk Nehethowuk*) and western scientific knowledge, which were treated equally and meaningfully.
- G. The Heritage Resources Protection Plan as part of the Environmental Protection Plan is enforceable under *The Environment Act* (Manitoba), in accordance with the conditions of the Environment Licence.
- H. The Heritage Resources Protection Plan has also been reviewed by Historic Resources Branch of Manitoba Culture, Heritage and Tourism to ensure it is in accordance with *The Heritage Resources Act* and the Province of Manitoba "Policy Concerning the Reporting, Exhumation and Reburial of Found Human Remains".
- I. The Protocol for Protection of Heritage Objects and Aboriginal Human Remains in this agreement is intended to continue and build on the practices developed between NCN and Historic Resources Branch, respecting the interests and governmental authorities of both Manitoba and NCN.

- J. Section 45 of *The Heritage Resources Act* serves to amend the former law of Manitoba to prevent private persons who may find human remains from obtaining any legal rights in those found human remains by providing that the Crown, rather than the finder, has the legal rights. Section 45 does not affect the legal right of the Crown to enter into arrangements with First Nations relating to control, custody or ownership of found human remains. Section 45 reads as follows:

Ownership and right of possession - human remains

45 The property in, and the title and right of possession to, any human remains found by any person after May 3, 1967, is and vests in the Crown.

Manitoba, NCN and the Partnership agree as follows:

Section 1 – Process for Heritage Objects and Human Remains Found during the Wuskwatim Project

1.1 The process for dealing with heritage objects and human remains found, discovered or disturbed on lands owned by the Partnership will be as set out in subsection 5.2 of the Heritage Resources Protection Plan, which is consistent with the provisions and procedures outlined in Manitoba's "Policy Concerning the Reporting, Exhumation and Reburial of Found Human Remains" (1987) ("the Burials Policy"), a copy of which is attached hereto as Schedule "A", and with *The Heritage Resources Act*.

1.2 Subject to dealing with heritage objects and human remains found, discovered or disturbed on lands owned by the Partnership in accordance with the Heritage Resources Protection Plan and applicable law, the custody, control and management of heritage objects of an aboriginal origin and aboriginal human remains that are not required for forensic purposes will be managed by and between NCN and Manitoba in accordance with sections 2 and 3 of this Agreement.

1.3 All commitments or activities under this Agreement are to be construed in a manner consistent with *The Heritage Resources Act*, the Burials Policy and section 35 of the *Constitution Act, 1982*.

1.4 Manitoba and NCN recognize:

- (a) the importance of the equal and meaningful treatment of *Ethinesewin* (traditional knowledge, including the collective wisdom of *Nisichawayasihk Nehethowuk*) and western scientific knowledge, in dealing with heritage resources and human remains found in the course of the construction of the Wuskwatim generation project;

- (b) subject to section 1.1 of this Agreement found Aboriginal human remains that are not required for forensic purposes discovered in the course of the Wuskwatim project will be dealt with in a manner that respects the customary laws of NCN.

Section 2 – Custody and Ownership in Heritage Objects found on Partnership Lands

2.1 Subject to subsection 1.1 of this Agreement, in accordance with paragraph 44(1)(b) of *The Heritage Resources Act*, the Partnership, by this Agreement gives to Manitoba custody of all heritage objects found on lands owned by the Partnership.

2.2 Subject to subsection 1.1 of this Agreement, the Minister of Culture, Heritage and Tourism hereby orders in accordance with subsection 44(4) of *The Heritage Resources Act* that any right of ownership in any heritage object of an aboriginal origin found on lands owned by the Partnership is waived by the Crown to NCN.

Section 3 – Custody, Control and Ownership of Found Human Remains

3.1 Subject to subsection 1.1 of this Agreement, the Partnership, to the extent that it has any interest, releases to Manitoba and NCN any interest in any human remains found, discovered or disturbed on lands owned by the Partnership.

3.2 Subject to subsection 1.1 of this Agreement, Manitoba agrees that NCN will have custody, control and ownership of any Aboriginal human remains that are not required for forensic purposes found on lands owned by the Partnership in the course of the Wuskwatim Generating project, subject to any requirements under laws relating to human remains for forensic purposes, including, but not limited to *The Fatality Inquiries Act*.

3.3 The criteria and process to be used to determine whether human remains are Aboriginal and are not required for forensic purposes are set out in Schedule “C”.

3.4 This section applies to any property in or title and right of possession to any human remains found on lands owned by the Partnership that Manitoba obtains by virtue of section 45 of *The Heritage Resources Act*.

Section 4 – Process to resolve disputes

4.1 Manitoba and NCN agree to use their best efforts to resolve any issues or disputes between them about the application or interpretation of this agreement as quickly as possible.

4.2 Each of Manitoba and NCN agrees to identify from time to time a person or persons to work together with the person or persons identified by the other to attempt to resolve issues or disputes referred to in subsection 4.1.

4.3 Subject to sections 1.1 and 5.6, for the purpose of subsection 4.1, “issues and disputes” includes any issues or disputes relating to the custody, control or ownership of heritage objects and human remains found, discovered or disturbed on lands owned by the Partnership.

4.4 Where any issue or dispute about the application or interpretation of this Agreement is not resolved by consensus under subsections 4.1 and 4.2, either Manitoba or NCN may refer the matter to be heard and determined by a sole arbitrator in accordance with *The Arbitration Act* (Manitoba). Manitoba and NCN will use their best efforts to ensure that the issue or dispute is heard and determined as quickly as possible.

Section 5 – Effect and Duration of Memorandum

5.1 The parties acknowledge that the Partnership is a limited partnership formed under the laws of the Province of Manitoba, a limited partner of which is only liable for any of its liabilities or any of its losses to the extent of the amount that the limited partner has contributed or agreed to contribute to the capital of the limited partnership and the limited partner’s pro rata share of any undistributed income. The parties acknowledge that the obligations of the Partnership shall not be personally binding upon, nor shall resort be had to, the property of any of the limited partners, their successors and assigns, and that resort shall only be had to the property of the Partnership or the property of its general partner. 5022649 Manitoba Ltd. is the sole general partner of the Partnership.

5.2 This Agreement will apply throughout the construction activities associated with the Wuskwatim Generation Project, unless amended in accordance with subsection 5.7.

5.3 The commitment by Manitoba and NCN under the May 12, 2005 Agreement in Principle to develop a NCN-Manitoba Heritage Resources Agreement for the Nelson House Resource Management Area continues and Manitoba and NCN will work together on the commitment with the objective of completing that NCN-Manitoba Heritage Resources Agreement by May 12, 2007.

5.4 Arrangements made by Manitoba and NCN in the NCN-Manitoba Heritage Resources Agreement for the Nelson House Resource Management Area may, where agreed by NCN, Manitoba and the Partnership in accordance with subsection 5.8, constitute an amendment to this Agreement.

5.5 Nothing in this Agreement is intended to alter aboriginal or treaty rights of Nisichawayasihk Cree Nation or other aboriginal peoples recognized or affirmed under section 35 of the *Constitution, Act, 1982*.

5.6 Any disputes between NCN and Manitoba about any matter under this Agreement shall not affect subsection 1.1 of this Agreement or the ability of the Partnership to rely on subsection 1.1 of this Agreement or to rely on subsection 5.2 of the Heritage Resources Protection Plan in meeting its obligations with respect to any heritage objects and human remains found, discovered or disturbed on lands owned by the Partnership, for the purposes of Manitoba's "Policy Concerning the Reporting, Exhumation and Reburial of Found Human Remains" (1987), *The Heritage Resources Act* or any conditions of its licence issued under *The Environment Act* for the Wuskwatim Project dated June 21, 2006 with respect to the handling or treatment of heritage resources.

5.7 This Agreement does not affect

- (a) any liability of Manitoba Hydro for recovery and re-internment of human remains disinterred by flooding or shoreline deterioration as referred to in Article 14.4.1(d) of the 1996 Comprehensive Implementation Agreement relating to the Northern Flood Agreement; or
- (b) any liability of the Partnership for recovery and re-internment of human remains disinterred by flooding or shoreline deterioration as referred to in Article 7.4.1(d) of the Adverse Effects agreement between NCN, Wuskwatim Power Limited Partnership, Manitoba Hydro and the Taskinigahp Trust, dated June 28, 2006.

5.8 No amendment or change to, or modification of, this Agreement shall be valid unless it is in writing and signed by all parties.

The authorized representatives of the Parties have signed this Agreement on the dates noted below.

for **Majesty the Queen in Right of the Province of Manitoba**

Witness

Minister of Culture, Heritage
and Tourism

Date: _____

for **Nisichawayasihk Cree Nation**

Witness

Chief

Witness

Councillor

Witness

Councillor

Witness

Councillor

Witness

Councillor

Witness

Councillor

Date: _____

SIGNED IN THE PRESENCE OF:

for **5022649 Manitoba Ltd.**, (the
General Partner of the Wuskwatim
Power Limited Partnership for and on
behalf of the Wuskwatim Power Limited
Partnership)

Witness

Date: _____

Schedule “A”

Wuskwatim Power Limited Partnership
HERITAGE RESOURCES
PROTECTION PLAN



ANISKOWATESEWE
KETAPAHCHIKEWE OTHASCHIEKWIN

Table of Contents

Preface.....	1
1.0 Introduction.....	8
1.1 Concept and Purpose of this <i>Aniskowatesewe Ketapahchikewe Othaschikekwin</i> (Heritage Resources Protection Plan) and the <i>Aski Ketapahchikewe Othaschikekwina</i> (Environmental Protection Plans).....	8
1.2 How to Use the <i>Aniskowatesewe Ketapahchikewe Othaschikekwin</i> (Heritage Resources Protection Plan).....	9
1.3 Concept of the Environmental Protection Program.....	11
2.0 Project Description	13
3.0 Environmental Setting.....	16
4.0 Onsite Management Structure.....	17
5.0 Heritage Resources Protection Measures	19
5.1 Regulatory and Contractual Requirements	19
5.2 Cultural and Archaeological Protection Measures.....	21
5.3 Locations of Special Interest	31
6.0 Reporting and Following Up.....	32
7.0 Glossary of Terms	35
Attachment “A” - Examples of Features of Potential Interest	36

HERITAGE RESOURCES PROTECTION PLAN
(*Aniskowatesewew Ketapahchikewe Othaschikekwin*)

Preface

Wuskwatim Power Limited Partnership

Wuskwatim Power Limited Partnership (the “Partnership”) is a limited partnership of which 5022649 Manitoba Ltd., a wholly owned subsidiary of Manitoba Hydro, is the general partner and Manitoba Hydro and Taskinigahp Power Corporation, wholly owned by Nisichawayasihk Cree Nation (“NCN”), are limited partners. The Partnership has entered in contracts with Manitoba Hydro for the management, construction and operation of the Wuskwatim generating station (the Wuskwatim Project”) in accordance with the provisions of the applicable agreements. Manitoba Hydro, as Project Manager, in turn will sub-contract much of the construction work to other contractors, including NCN Qualified Businesses.

During the planning phase of the Wuskwatim Project, extensive work was undertaken collaboratively by Manitoba Hydro and NCN. The Wuskwatim Project will be built on land owned by the Partnership, which land is located within *Nisichawayasihk N’tuskenan* (“our land” to *Nisichawayasihk Nehethowuk*, the people from where the three rivers meet and who speak the language of the four winds) and within the Nelson House Resource Management Area. The planning phase included environmental assessment and environmental approval processes. During the assessment process *Ethinesewin* (traditional knowledge, including the collective wisdom of *Nisichawayasihk Nehethowuk*) and western scientific knowledge were treated equally and meaningfully in the development of the studies and processes which formed the basis for the joint environmental impact statement. This *Aniskowatesewew Ketapahchikewe Othaschikekwin*

(Heritage Resources Protection Plan) and other *Aski Ketapachchikewe Othaschikekwina* (Environmental Protection Plans) for the Wuskwatim Project have been developed in a similar collaborative manner, including an equal and meaningful respect for *Ethinesewin* and western scientific knowledge.

The Partnership and Manitoba Hydro, as the Project Manager, are committed to implementing this *Aniskowatesewe Ketapahchikewe Othaschikekwina* (Heritage Resources Protection Plan). Companies which sub-contract with Manitoba Hydro to do work on the Wuskwatim Project will also be required to follow the terms of this and other applicable plans.

Nisichawayasihk Cree Nation and Kihche’othasowewin (the Great Law of the Creator

The *Nisichawayasihk Nehethowuk* traditionally live by reference to *Kihche’othasowewin* (the Great Law of the Creator), which is underpinned by spiritual and philosophical beliefs, values, principles and goals. *Nisichawayasihk Nehethowuk* customary law is the sum total of these beliefs, values and norms. All combine to guide and direct the conduct of *ethiniwuk* (individuals), *ka’esi minisichik* (the family), *ka’esi anisko’wahkometochik* (the extended family), *mamawe’minisichik* (the clan) and *ka’esi’pisketuskan’nesichik* (the nation). In this way social order is maintained by doctrines that reflect *Kihche’othasowewin*.

Ceremonies are an important part of *Nisichawayasihk Nehethowuk* customary law and are performed primarily to seek guidance, reconciliation, restore harmony, reverse the potential of misfortune and achieve balance with one’s surroundings. The principles of *Nisichawayasihk Nehethowuk* customary law are as follows:

1. ***Kwayaskonikiwin***, which means that the conduct of a person must be reconciled with ***Kihche’othasowewin*** (the Great Law of the Creator);
2. ***Kistethichikewin***, which means that the conduct of a person must be based on the sacred responsibility to treat all things with respect and honour. In the context of access management, ***Kistethichikewin*** means that a person must show respect by requesting access.
3. ***Tawinamakewin***, which means that a person is welcome. In the context of access management, ***Tawinamakewin*** means that a person granting access has a duty to consider a request for access, including consideration of the well-being of the person requesting access.
4. ***Aski Kanache Pumenikewin***, which means that the conduct of a person must be in accordance with the sacred duty to protect ***N’tuskenan*** (the land, life, home and spiritual shelter entrusted to us by ***Kihche’manitou*** [the Creator] for our children ***michimahch’ohchi*** [since time immemorial]).
5. ***Ethinesewin***, which means traditional knowledge, including the influence of moons and seasons on climate, weather, animals, plants and ***Ethiniwuk*** (individuals) as well as seasonal harvesting cycles and practices. There is a duty to respect and seek ***Ethinesewin***.
6. ***N’totumakewin***, which means that a person must seek not to be understood but to first understand. ***N’totumakewin*** establishes a duty to teach as well as to understand and to share as well as to seek ***Ethinesewin***;
7. ***Ayakwamisiwin***, which means that a person must be cautious of his/her actions where

there is uncertainty;

8. ***O'chinewin***, which means that what a person does to nature will come back to that person;

9. ***Aniskowatesewe Kanache Pumenikewin***, which means that a person must act in accordance with the sacred responsibility to protect heritage resources;

10. ***Kanatethechikewin***, which means that the conduct of a person must be in accordance with the sacred responsibility to ensure that ***Ethinewikuna*** (human remains) and ***Aniskowe Apuchetawina*** (artifacts; the things we use while here on Earth) must not be disturbed;

11. ***Asehewewin***, which means that what a person does to ***Ethinewikuna*** (human remains) and ***Aniskowe Apuchetawina*** (artifacts; the things we use while here on Earth) will affect that person's whole being.

12. ***Nehetho Tipethimisowin***, which means the exercise of sovereignty. The conduct of all persons must be consistent with ***Kihche'othasowewin*** (the Great Law of the Creator) and must reflect decision-making roles in accord with ***Nehetho Tipethimisowin***.

To ***Nisichawayasihk Nehethowuk*** (the people from where the three rivers meet and who speak the language of the four winds), ***n'tuskenan*** (our land) has been entrusted to them by ***Kihche'manitou*** (the Creator) for their children ***michimahch'ohchi*** (since time immemorial).

NCN has based its collaboration with Manitoba Hydro on the development of the Wuskwatim

Project on *Aski Kanache Pumenikewin* (the sacred duty and responsibility to protect *n'tuskenan*), and *Asehewewin* (what you do to *ethinewikuna* [human remains] and *aniskowe apuchetawina* [artifacts]) will affect your whole being. Project planning by NCN incorporated *Kihche'Othasowewin* (the Great Law of the Creator) and reflected the principle of *Kwayaskonikewin* (reconciliation). In considering the specific terms, conditions, protocols, guidelines, recommendations and best practices incorporated into this *Aniskowatesewew Ketapahchikewe Othaschikekwin* (Heritage Resources Protection Plan), NCN has applied its belief in *O'chinewin* (what you do to nature comes back to you). Included is the concept of maintaining a written record in respect of the treatment of heritage resources that are found, discovered or disturbed during construction activity and ensuring that a chain of custody is kept in respect of the location and disposition of any heritage objects that are recovered or exhumed and removed from the Project site.

Through NCN's participation in the planning for the Wuskwatim Project and in the development of this *Aniskowatesewew Ketapahchikewe Othaschikekwin* (Heritage Resources Protection Plan), *Kihche'Othasowewin* (the Great Law of the Creator) and *Ethinesewin* (traditional knowledge, including the collective wisdom of *Nisichawayasihk Nehethowuk*) has been integrated into this *Aniskowatesewew Ketapahchikewe Othaschikekwin* (Heritage Resources Protection Plan).

Manitoba Hydro and Commitment to Environmental Protection

Manitoba Hydro supports the need to protect and preserve natural environments and heritage resources affected by its projects and facilities. This goal can only be achieved with the full commitment of Manitoba Hydro employees and consultants at all stages of projects from planning and design through implementation and the full commitment of contractors during the

implementation phase.

As stated in its Corporate Environmental Management Policy:

Manitoba Hydro is committed to protecting the environment. In full recognition of the fact that corporate facilities and activities affect the environment, Manitoba Hydro integrates environmentally responsible practices into its businesses, thereby:

- Preserving or minimizing any adverse impacts, including pollution on the environment, and enhancing positive impacts,
- Meeting or surpassing regulatory requirements and other commitments;
- Considering the interests and utilizing the knowledge of our customers, employees, communities and stakeholders who may be affected by our actions;
- Reviewing our environmental objectives and targets annually to ensure improvements in our environmental performance;
- Continually improving our Environmental Management System; and
- Documenting and reporting our activities and environmental performance.

Manitoba Hydro's environmental management policy has been incorporated in the plans for the construction and operation of the Wuskwatim Project. The use of environmental protection plans is a practical and direct implementation of Manitoba Hydro's commitment to responsible environmental stewardship.

1.0 Introduction

1.1 Concept and Purpose of this *Aniskowatesewew Ketapahchikewe Othaschikekwin* (Heritage Resources Protection Plan) and the *Aski Ketapahchikewe Othaschikekwina* (Environmental Protection Plans)

Aski Ketapahchikewe Othaschikekwina (Environmental Protection Plans), including this *Aniskowatesewew Ketapahchikewe Othaschikekwin* (Heritage Resources Protection Plan), are environmental protection **guidelines** that supplement project design, construction and operating specifications to prevent or minimize adverse environmental effects arising from the construction and operation of the Wuskwatim Project. They are designed as “user friendly” documents for use as reference documents by field construction and operating personnel. *Aski Ketapahchikewe Othaschikekwina* (Environmental Protection Plans) prescribe practical responses to legislation, regulations, licences, permits, standards, conditions, contracts, agreements, designs and specifications for specific situations at specific work locations. They identify and describe environmental protection measures for sites or features of importance to local communities or individuals. This *Aniskowatesewew Ketapahchikewe Othaschikekwin* (Heritage Resources Protection Plan) does not replace *The Heritage Resources Act* (Manitoba) or Manitoba's "Policy Concerning the Reporting, Exhumation and Reburial of Found Human Remains" (1987).

The Wuskwatim Project is being developed on land owned by the Partnership. Because that land is located within *Nisichawayasihk N'tuskenan* (“our land” to *Nisichawayasihk Nehethowuk*, the people from where the three rivers meet and who speak the language of the four winds) and the Nelson House Resource Management Area, *Kihche’othasowewin* (the Great Law of the Creator) and *Ethinesewin* (traditional knowledge, including the collective wisdom of *Nisichawayasihk*

Nehethowuk) have been integrated into this *Aniskowatesewew Ketapahchikewew Othaschikekwin* (Heritage Resources Protection Plan), as part of the process of developing the *Aski Ketapachchikewew Othaschikekwina* (Environmental Protection Plans) for the Wuskwatim Project.

1.2 How to Use the *Aniskowatesewew Ketapahchikewew Othaschikekwin* (Heritage Resources Protection Plan)

This *Aniskowatesewew Ketapahchikewew Othaschikekwin* (Heritage Resources Protection Plan) is presented in a format that provides the user with a quick reference and instruction regarding anticipated environmental concerns as they relate to heritage resources. It also describes procedures for dealing with unanticipated situations. The plan is organized into the following sections:

- Preface: Information about the Wuskwatim Power Limited Partnership, Nisichawayasihk Cree Nation and Manitoba Hydro
- Section 1: Introduction to the Plan
- Section 2: Project description (description of work to construct and operate the project)
- Section 3: Environmental setting (features of local importance)
- Section 4: On-site Management Structure
- Section 5: Heritage Resources Protection Measures (including regulatory requirements)
- Section 6: Reporting Responsibilities
- Section 7: Glossary of Terms
- Attachment “A” - Examples of Features of Potential Interest

This *Aniskowatesewe Ketapahchikewe Othaschikekwin* (Heritage Resources Protection Plan) is subdivided into sections that are applicable to project construction, operation and decommissioning. Some words in the text are in **bold face** the first time they occur in the document and these words are defined in the glossary in section 7.0.

It is intended that relevant contractor staff and Manitoba Hydro project employees will be familiar with the content of this *Aniskowatesewe Ketapahchikewe Othaschikekwin* (Heritage Resources Protection Plan). The document and copies of all documents contained in the reference section of this *Aniskowatesewe Ketapahchikewe Othaschikekwin* (Heritage Resources Protection Plan) shall be available at the Project work site. This *Aniskowatesewe Ketapahchikewe Othaschikekwin* (Heritage Resources Protection Plan) will be thoroughly reviewed with contractors at pre-job meetings and copies of this *Aniskowatesewe Ketapahchikewe Othaschikekwin* (Heritage Resources Protection Plan) will be made available for review by relevant members of the contractor's staff. Questions regarding the implementation of environmental protection measures shall be directed to the Manitoba Hydro Resident Manager, Plant Manager or delegate. Discussion of this *Aniskowatesewe Ketapahchikewe Othaschikekwin* (Heritage Resources Protection Plan) will be a regular agenda item for Project progress meetings.

1.3 Concept of the Environmental Protection Program

This *Aniskowatesewe Ketapahchikewe Othaschikekwin* (Heritage Resources Protection Plan) is one part of an environmental protection program that includes environmental protection plans and field guides, environmental management plans, and environmental monitoring plans:

- Access Road Environmental Protection Plan and Field Guide (*Aski Ketapahchikewe Othaschikekwin*).
- Construction Camp Environmental Protection Plan (*Aski Ketapahchikewe Othaschikekwin*) and Field Guide.
- Generating Station Environmental Protection Plan (*Aski Ketapahchikewe Othaschikekwin*) and Field Guide.
- *Aniskowatesewe Ketapahchikewe Othaschikekwin* (Heritage Resources Protection Plan).
- Access Management Plan.
- No Net Loss (Management) Plan.
- Sediment Management Plan.
- Physical Effects Management Plan.
- Aquatic Effects Monitoring Plan.
- Terrestrial Effects Monitoring Plan.
- Resource Use Monitoring Plan.

These plans are part of an environmental management program that includes such other elements as:

- Employment and training of the *Aski Kihche O'nanakachechikewuk* (“AKO” or Environmental Inspectors).
- Ongoing on-site inspection.
- Regular documentation of field inspection activities.
- Regulatory liaison
 - Work permits
 - Adaptive monitoring and management plans

- General and site specific environmental protection guidelines
- Monitoring requirements review
- Specialist consultant management program review
- *Ethinesewin* (traditional knowledge, including the collective wisdom of *Nisichawayasihk Nehethowuk*) and community reporting
- **Follow-up** and adaptive research, monitoring and environmental protection programs
- Annual reporting

2.0 Project Description

The Wuskwatim Generation Project involves the development of a 200 megawatt generating station at Taskinigup Falls on the Burntwood River, an access road, construction camp and infrastructure, excluding the permanent transmission lines and associated works (the “Wuskwatim Project”). The Wuskwatim Project will be built on land owned by the Partnership, which is located within *Nisichawayasihk N’tuskenan* (“our land” to *Nisichawayasihk Nehethowuk*, the people from where the three rivers meet and who speak the language of the four winds) and within the Nelson House Resource Management Area. The Wuskwatim Project site is southeast of the main NCN community at Nelson House, Manitoba and southwest of Thompson, Manitoba. The Wuskwatim Project will require six years to build; the access road along with the camp and other infrastructure will be built during the first two years of construction of the Wuskwatim Project. The Wuskwatim access road will be located between PR 391 (intersecting PR 391 at Mile 17, about 32 kilometres west of Thompson) and the Wuskwatim Project

construction site. The Wuskwatim access road will be approximately 48 kilometres in length.

The amount of land required for the construction, operation and maintenance of the Wuskwatim Project, is summarized in Table 2.1. Following construction, approximately 120 ha of land will be required for the ongoing operations and maintenance of the Project at site while the remaining land required for construction will be rehabilitated to varying degrees.

The following components from the construction of the Wuskwatim Project will create changes to the physical environment:

- Access road;
- Site clearing for Project infrastructure (including construction camp and the Manitoba Hydro and contractor work sites), immediate forebay and generating station;
- Off-site construction material extractions (i.e. impervious and granular fill materials);
- Generating station construction (excavation, powerhouse and spillway structures, dyke, main dam);
- Excavated material placement area (excess rock and overburden); and
- Channel excavations at Wuskwatim Fall to improve flow conveyance.

Most of the land owned by the Partnership on which the Wuskwatim Project will be built is within Manitoba Hydro's Churchill River Diversion license area and the Province of Manitoba Water Power Reserve area, with the exception of parts of the access road and the granular borrow areas.

Table 2-1 Summary of Lands Required for the Wuskwatim GS

Description	Amount of Land (ha)
Access Road (48 km long road with a 100 metre ROW, between GS and PR 391)	479
Construction Power Transmission Line (46 km transmission line with a 60 metre ROW, between GS and Thompson)	272
Granular Borrow Areas (Borrow areas G, H & J – Not all of the areas will be required for construction purposes but for assessment purposes it is assumed that all the borrow areas except J-1 will be required)	654
Impervious Borrow Areas (Borrow areas in the Primary Structures Areas and area SA-A Not all of the areas will be required for construction but for assessment purposes it is assumed that all the borrow areas will be required)	26
Construction of Infrastructure & Permanent Facilities at the GS (relatively conservative estimate as it includes 9.5 Ha of high bedrock areas which are not expected to be required for any of the activities)	147
Flooded Area (Land between Wuskwatim Falls and Taskinigup Falls that will be inundated as a result of construction of the generating station)	37
Approximate Area of Site Disturbance (approximate 100 metre buffer area around the construction site area)	487
Water Storage Area (A setback line will be established around the reservoir in accordance with accepted procedures to define a safe and practical distance beyond which development could proceed. The setback line forms the upper limits of an easement area which is referred to as the Lands Required for Water Storage Purposes. The lower level of the easement area is the reservoir Full Supply Level of 234.0 m)	2750

3.0 Environmental Setting

Heritage resources are indicators of past human activities. They provide valuable information about past lifeways, are a link between past and present generations, and are the surviving tangible products of past culture. Culture can be described as the fabric of human existence and is the source of one's identity.

Heritage resources were an important component of the environmental impact assessment. The assessment considered a number of sources of information, including previous heritage resource surveys, predictive modeling, and preparatory research including a literature review. Field research was undertaken specifically for the Wuskwatim Project. These are described in Volume 9 of the Environmental Impact Statement. The assessment concluded:

“It is expected that most of the heritage resources in the central area of the development, the section of river between Wuskwatim Falls and Taskinigup Falls, have been previously impacted by CRD. Archaeological sites not discovered during the various archaeological surveys, or by the archaeological study team HRIA field study, may be present within the footprint of the generating station.”

Undiscovered sites may remain. The Partnership has concluded that it is important to develop and implement this *Aniskowatesewew Ketapahchikewew Othaschikekwin* (Heritage Resources Protection Plan) to achieve its commitment to protect heritage resources and to ensure that any human remains or heritage objects that may be found, discovered or disturbed during the development of the Wuskwatim Project are treated in the manner set out in section 5.2 of this *Aniskowatesewew Ketapahchikewew Othaschikekwin* (Heritage Resources Protection Plan), which is consistent with

the principles of *Nisichawayasihk Nehethowuk* customary law, and in accordance with applicable laws.

4.0 On-Site Management Structure

The Resident Manager will be the senior management authority on site during the construction of the Wuskwatim Project. During the operations phase of the Project, the senior management authority will be the Plant Manager.

Reporting to the Resident Manager will be an Environmental Supervisor. *Aski Kihche O'nanakachechikewuk* (Environmental Inspectors or “AKO’s”) will report to the Environmental Supervisor. The Environmental Supervisor and the AKO’s will have the responsibility and first-line authority to ensure that all *Aski Ketapahchikewe Othaschikekwina* (Environmental Protection Plans) are followed, including compliance with measures to protect heritage resources through this *Aniskowatesewe Ketapahchikewe Othaschikekwina* (Heritage Resources Protection Plan). In addition, the AKO’s will function as on-site monitors of heritage resources in connection with the construction of the Wuskwatim Project.

A Project Archaeologist, reporting to the Resident Manager, will be retained to provide management, training and advice to the Resident Manager, the Environmental Supervisor, and the AKO’s concerning heritage resources. The Project Archaeologist will obtain such annual heritage permits in respect of each component of the Wuskwatim Project that may potentially affect heritage resources as may be required by *The Heritage Resources Act* and will obtain such other or additional heritage permits from time to time as may be required by *The Heritage Resources*

Act or as are in accordance with accepted archaeological practices and will attend at the Wuskwatim Project site as required.

The NCN Archaeologist will be retained by NCN to work with the Project Archaeologist, and will provide advice to the Project Archeologist and the Resident Manager, about the application of *Ethinesiwini* in relation to the protection of heritage resources and to seek the advice of the *Nisichawayasihk Aski Kihche O'nanakachechikiwuk* (monitors and stewards of *Nisichawayasihk N'tuskenan*) as provided in section 5.2 of this Plan. The NCN Archaeologist generally will report to the NCN Implementation Coordinator but will attend at the Wuskwatim Project site as required and while on the site will report to the Resident Manager.

5.0 Heritage Resources Protection Measures

5.1 Regulatory and Contractual Requirements

The Wuskwatim Project requires authorization of federal and provincial regulators. The Project was reviewed under the *Canadian Environmental Assessment Act* and is to receive authorizations under the *Fisheries Act* and *Navigable Waters Protection Act*. The Project has also been reviewed and licensed under *The Environment Act (Manitoba)* and *The Water Power Act (Manitoba)*.

Other legislation also applies to the Wuskwatim Project. The most applicable for the purposes of this *Aniskowatesewew Ketapahchikewe Othaschikekwin* (Heritage Resources Protection Plan) is *The Heritage Resources Act*. Manitoba's *Policy Concerning the Reporting, Exhumation and Reburial of Found Human Remains* also applies.

Project licences, authorizations and permits must be obtained prior to commencement of construction. All relevant Manitoba Hydro employees and contractors and their employees working on the Wuskwatim Project will be made aware of the contents of applicable regulatory specifications, guidelines, licences, authorizations and permits, and of this Plan, and copies will be available from the Resident Manager's office.

One of the functions of this *Aniskowatesewew Ketapahchikewe Othaschikekwin* (Heritage Resources Protection Plan) is to demonstrate and document due diligence. In this context, due diligence involves taking all reasonable, practical steps to protect the environment during construction, operation and decommissioning phases of the Wuskwatim Project.

The Partnership supports the need to preserve and protect natural environments and heritage resources affected or which may be affected, directly or indirectly, by the Wuskwatim Project. In recognition of this objective, all Project participants will be required to undertake all necessary activities, steps, procedures and measures required to ensure work is done in strict compliance with contractual obligations and environmental and heritage regulations.

The process for dealing with heritage objects and human remains found, discovered or disturbed on lands owned by the Partnership will be solely as set out in subsection 5.2 of this Heritage Resources Protection Plan, which is consistent with the provisions and procedures outlined in Manitoba's "Policy Concerning the Reporting, Exhumation and Reburial of Found Human Remains" (1987) and with *The Heritage Resources Act*.

Once human remains or heritage objects have been found, discovered or disturbed on lands owned by the Partnership, subject to section 5.2 of this Plan, their custody, control, and ownership will be managed in accordance with an "Agreement for a Protocol for the Protection of Heritage Resources and Human Remains Related to the Wuskwatim Project" (August 2006) made between Manitoba, NCN and the Partnership, and applicable laws.

5.2 Cultural and Archaeological Protection Measures

High Priority Sites: Human Remains

No human remains should be disturbed or removed from their original resting place unless removal is unavoidable and necessary. The following describes the practices that will be followed

if skeletal elements believed or known to be human remains and/or accompanying grave goods are found, discovered or disturbed:

- Construction, operation or decommissioning activities at that location will be stopped immediately. The AKO has the authority to halt project activities in the vicinity where the human remains or heritage objects believed to be grave goods associated with human remains are found, discovered or disturbed until a project supervisor or manager attends to the site.
- An offering of tobacco will be made by the AKO.
- The Resident Manager (or delegate) will contact (1) the Project Archaeologist; (2) the NCN Wuskwatim Implementation Coordinator, who will notify NCN Chief and Council and the NCN Archaeologist(who will obtain advice, as necessary, from the *Nisichawayasihk Aski Kihche O'nanakachechikiwuk* (monitors and stewards of *Nisichawayasihk N'tuskenan*).
- The Project Archaeologist, working with the NCN Archaeologist, will determine whether the remains are human or non-human.
- If the skeletal remains are identified on-site as human, the Project Archaeologist, working with the NCN Archaeologist, and the Resident Manager will immediately notify the RCMP and the Manitoba Historic Resources Branch.
- Persons designated by the RCMP and/or the Office of the Chief Medical Examiner and the Historic Resources Branch, along with the Project Archaeologist and the NCN Archaeologist will jointly examine the context of the human remains to determine proper jurisdiction.
- If the remains are determined to be forensic the RCMP and the Chief Medical Examiner will have jurisdiction over the area of the find and the remains.

- If it cannot be immediately determined whether the remains are forensic or non-forensic, the recovery and custody of the remains will be placed under the jurisdiction of the RCMP and the Chief Medical Examiner for further study until it is determined whether the remains are forensic or non-forensic.
- In respect of any human remains, if not already known, the Project Archaeologist working with the NCN Archeologist and the Historic Resources Branch will confirm whether the RCMP and/or the Chief Medical Examiner have an ongoing interest in the remains under *The Fatalities Inquiries Act*.
- If the remains are determined to be non-forensic, the Project Archaeologist working with the NCN Archaeologist and the Historic Resources Branch will determine whether the remains are Aboriginal human remains. .
- If the human remains are not forensic human remains, and their removal is required to protect the remains, the Project Archaeologist, working with the NCN Archaeologist, will obtain the required permits from the Manitoba Historic Resources Branch
- Out of respect for the remains, all work will be conducted as much as possible out of the public eye.
- The Resident Manager (or delegate), with the advice of the Project Archaeologist, working with the NCN Archaeologist, will establish a buffer around the remains.
- A cautious excavation program under the direction of the Project Archaeologist, working with the NCN Archaeologist (who in turn will obtain advice, as necessary, from the *Nisichawayasihk Aski Kihche O'nanakachechikiwuk*), will be conducted to determine if there are other human remains or artifacts in the area. No construction, operation or decommissioning activities will take place within the buffer until the program has been completed.

- In respect of any human remains, if not already known, the Project Archaeologist, working with the NCN Archaeologist, will confirm whether the RCMP have an on-going interest in the remains under the *Fatalities Inquiries Act*.

The following describes the practices that will be followed where the RCMP have determined that they have no interest in the remains under the *Fatalities Inquiries Act*:

- The NCN Wuskwatim Implementation Coordinator in consultation with the Project Archaeologist, working with the NCN Archaeologist (who in turn will obtain advice, as necessary, from the *Nisichawayasihk Aski Kihche O'nanakachechikiwuk*), will arrange for and facilitate the appropriate cultural and spiritual ceremony. This will be arranged by NCN in a respectful and expeditious manner and normally will be completed within one or two days of discovery. However, the Project Archaeologist, working with the NCN Archaeologist, may in her discretion determine that due to site conditions additional time is required.
- During this period any construction, operation or decommissioning activities that would directly or indirectly impact the remains (for an example, any project activities that would cause water to inundate the remains) will be avoided. Construction, operation or decommissioning activities that will not impact the remains or related archeological activities may proceed, unless the Project Archaeologist, working with the NCN Archaeologist, determines that such construction, operation or decommissioning activity would impact the remains or related archeological activity.
- The Project Archaeologist, working with the NCN Archaeologist (who in turn will obtain advice, as necessary, from the *Nisichawayasihk Aski Kihche O'nanakachechikiwuk*), will

arrange to protect the burial site or to exhume and remove the remains in accordance with professional archeological standards.

- No technical or popular reports related to any such find and its analysis will be published unless NCN consents to such publication, other than such reports provided to the Partnership or as required by law.

High Priority Heritage Resource Sites

High priority heritage resource sites are those with concentrations of diagnostic, rare or ceremonial/sacred artifacts (such as large ceramic pieces, bone or copper tools, large or rare projectiles, and pipes and other ceremonial objects); and petroforms, pictographs, and tent rings. The following describes the practices that will be followed if high priority heritage resource sites are found:

- Construction, operation or decommissioning activities at that location will be stopped until the situation is evaluated. The AKO has the authority to halt construction, operation and decommissioning activities until a project supervisor or manager attends to the site.
- An offering of tobacco will be made by the AKO.
- The AKO and Resident Manager (or delegate) will notify the Project Archaeologist and the NCN Archaeologist and the NCN Wuskwatim Implementation Coordinator, who will notify the NCN Chief and Council and the Manitoba Historic Resource Branch.
- The Resident Manager (or delegate), with the advice of the Project Archaeologist, working with the NCN Archaeologist, will establish a buffer around the find.

- A cautious excavation program under the direction of the Project Archaeologist, working with the NCN Archaeologist (who in turn will obtain advice, as necessary, from the *Nisichawayasihk Aski Kihche O'nanakachechikiwuk*), will be conducted to determine if there are other artifacts in the area. No construction, operation or decommissioning activities will take place within the buffer until the program has been completed.
- If sacred or ceremonial objects are found, the NCN Wuskwatim Implementation Coordinator, in consultation with the Project Archaeologist, working with the NCN Archaeologist (who in turn will obtain advice, as necessary, from the *Nisichawayasihk Aski Kihche O'nanakachechikiwuk*), will arrange for and facilitate the appropriate cultural and spiritual ceremony. This will be arranged by NCN in a respectful and expeditious manner and normally will be completed within one or two days of discovery. However, the Project Archaeologist, working with the NCN Archaeologist, may determine that due to site conditions additional time is required.
- Under the direction of the Project Archaeologist, working with the NCN Archaeologist (who in turn will obtain advice, as necessary, from the *Nisichawayasihk Aski Kihche O'nanakachechikiwuk*), the following will be undertaken:
 - an extended surface reconnaissance.
 - shovel tests at regular intervals perpendicular and parallel to artifact deposit.
 - a controlled collection of data about the artifacts, using chain and compass.
 - test excavations.
 - the find will be located and documented with GPS (both NAD 83 and 27) and relevant data (such as environmental conditions, terrain, topography, vegetation, etc.) will be recorded.
 - the artifacts will be collected and placed in a protective container and the date, project, contents, coordinates, and other relevant information, including the site

classification, will be recorded in accordance with an “Agreement for a Protocol for the Protection of Heritage Resources and Human Remains Related to the Wuskwatim Project” (August 2006) made between Manitoba, NCN and the Partnership, and applicable laws.

- The NCN Archeologist will contact the Historic Resources Branch and the Manitoba Museum to arrange for storage and analysis until such time as NCN obtains a proper repository (Interpretive /Museum Centre).
- During this period, any construction, operation or decommissioning activities that would directly or indirectly impact the artifacts (for an example, any construction, operation and decommissioning activities that would cause the artifacts to be flooded) will be avoided. Construction, operation or decommissioning activities that will not impact the artifacts or related archeological activities may proceed unless the Project Archeologist, working with the NCN Archaeologist, determines that such construction, operation or decommissioning activity would impact the artifacts or related archeological activity.
- No technical or popular reports related to any such find and its analysis will be published unless NCN consents to such publication, other than such reports provided to the Partnership or as required by law.

Medium Priority Heritage Resource Sites

Medium priority heritage resource sites include diagnostic finds and concentrations of artifact assemblages (such as arrow heads and other projectile points, ceramic rims, etc.) that provide some evidence of specific activities such as campsites, work stations, quarries, kill sites, and

historic settlement. The following describes the practices that will be followed if medium priority heritage resource sites or heritage objects associated with medium priority heritage resource sites are found:

- Construction, operation or decommissioning activities at that location will be stopped until the situation is evaluated. The AKO has the authority to halt project activities until a project supervisor or manager attends to the site.
- An offering of tobacco will be made by the AKO.
- The Resident Manager (or delegate) will notify the Project Archaeologist and the NCN Archaeologist and the NCN Wuskwatim Implementation Coordinator, who will notify the NCN Chief and Council.
- The Resident Manager (or delegate) with the advice of the Project Archaeologist, working with the NCN Archaeologist, will establish a buffer around the find.
- Under the direction of the Project Archaeologist, working with the NCN Archaeologist, (who in turn will obtain advice, as necessary, from the *Nisichawayasihk Aski Kihche O'nanakachechikiwuk*), the following will be undertaken:
 - an extended surface reconnaissance.
 - shovel tests at regular intervals perpendicular and parallel to artifact deposit.
 - a controlled collection of data about the artifacts, using chain and compass.
 - test excavations.
- Under the direction of the Project Archaeologist, working with the NCN Archaeologist, the following will be undertaken:
 - the find will be located and documented with GPS (both NAD 83 and 27) and relevant data (such as environmental conditions, terrain, topography, vegetation, etc.) will be recorded.

- the artifacts will be placed in a protective container and the date, project, contents, coordinates, and other relevant information, including the site classification, will be recorded in accordance with an Agreement for an “Agreement for a Protocol for the Protection of Heritage Resources and Human Remains Related to the Wuskwatim Project” (August 2006) made between Manitoba, NCN and the Partnership, and applicable laws.
- the NCN Archeologist will contact the Historic Resources Branch and the Manitoba Museum to arrange for storage and analysis until such time as NCN obtains a proper repository (Interpretive Museum Centre).
- During this period, any construction, operation or decommissioning activities that would directly or indirectly impact the artifacts (for an example, any construction, operation or decommissioning activities that would cause the artifacts to be flooded) will be avoided. Construction, operation or decommissioning activities that will not impact the artifacts or related archaeological activity may proceed unless the Project Archaeologist, working with the NCN Archeologist, determines that such construction, operation or decommissioning activities would impact the artifacts or related archeological activity.
- No technical or popular reports related to any such find and its analysis will be published unless NCN consents to such publication, other than such reports provided to the Partnership or as required by law.

Low Priority Heritage Resource Sites

Low priority heritage resource sites include isolated finds (such as single artifacts) or small undiagnostic lithic scatter (such as stone chips). The following describes the practices that will be followed if low priority heritage resource sites are found:

- The Resident Manager (or delegate) will contact the Project Archaeologist and the NCN Archaeologist, and the NCN Wuskwatim Implementation Coordinator, who will notify the NCN Chief and Council.
- Under the direction of the Project Archaeologist, working with the NCN Archaeologist,, the following will be undertaken:
 - the find will be located and documented with GPS (both NAD 83 and 27) and relevant data (such as environmental conditions, terrain, topography, vegetation, etc.) will be recorded.
 - the artifacts will be placed in a protective container and the date, project, contents, coordinates, and other relevant information, including the site classification, will be recorded in accordance with an “Agreement for a Protocol for the Protection of Heritage Resources and Human Remains Related to the Wuskwatim Project” (August 2006) made between Manitoba, NCN and the Partnership, and applicable laws.
- The NCN Archeologist will contact the Historic Resources Branch and the Manitoba Museum for storage and analysis until such time as NCN obtains a proper repository (Interpretive/Museum Centre).
- No technical and popular reports related to any such find and its analysis will be published unless NCN consents to such publication, other than such reports provided to the Partnership or as required by law.

5.3 Locations of Special Interest

Heritage resources may be found in many different locations, and all workers on the Project should remain vigilant. Because human remains and archaeological sites are most often found along waterways, the AKO's should be on site whenever construction work is occurring at

shorelines and at stream crossings. Burial sites, sacred sites and other sites traditionally and presently used for cultural and ceremonial purposes are important to *Nisichawayasihk Nehethowuk*, as are medicinal and other plants used for cultural and ceremonial purposes.

The Partnership recognizes NCN's special interest in undertaking an assessment and collection of surface artifacts once the coffer dam is constructed and the area is de-watered. However, at the present time it is not known if this will be practical. It will depend upon the time required for the silt to dry sufficiently in order for the Project Archaeologist, working with the NCN Archaeologist (who in turn will obtain advice, as necessary, from the *Nisichawayasihk Aski Kihche O'nanakachechikiwuk*), to have the area walked prior to the commencement of construction activities. Depending upon the number of artifacts and the condition of the silt, the Resident Manager will provide the opportunity to conduct at least a two-day systematic collection of surface artifacts once the coffer dam has been constructed and the area de-watered. Based on the results of the initial two-day systematic collection, the Project Archaeologist, working with the NCN Archaeologist (who in turn will obtain advice, as necessary, from the *Nisichawayasihk Aski Kihche O'nanakachechikiwuk*), may recommend to the Resident Manager that further time for investigation of the de-watered area be provided by the Resident Manager.

6.0 Reporting and Follow-up

As noted in Section 5, in addition to the NCN Archaeologist, Project Archaeologist, and the NCN Wuskwatim Implementation Coordinator are to be informed of all finds, including any human remains that are found, discovered or disturbed. The Manitoba Historic Resources Branch and the RCMP are also to be informed if human remains are found.

The Project Archaeologist, working with the NCN Archaeologist, will establish and maintain a record of each report of found, discovered or disturbed heritage objects and human remains that will include the provenience, a detailed provenance as well as the conservation plan and any identification plan for the heritage resource or resources associated with each record.

Information about burial sites, sacred sites and other sites traditionally and presently used for cultural and ceremonial purposes will be treated as confidential and will be provided to and maintained by NCN. Should information be collected about medicinal and other plants used for cultural and ceremonial purposes, this information will similarly be treated as confidential. NCN may choose to share this information with the Partnership and with the Manitoba Historic Resources Branch.

The Project Archaeologist, working with the NCN Archaeologist, will prepare an annual report, or more frequent reports as are necessary, to be provided to Manitoba Historic Resources Branch and the NCN Wuskwatim Implementation Coordinator. The report will provide the following information:

- A record of the human remains that were found including the disposition of the human remains as of the date of the report and the process by which the remains were managed and honoured.
- A summary of any directions provided by NCN regarding permission granted to conduct further investigations or identification (where such permission is required).
- A record of the heritage objects that were found and the process by which the heritage objects were managed.
- Any recommendations to improve this *Aniskowatesewe Ketapahchikewe Othaschikekwin*

(Heritage Resources Protection Plan).

- Any other matters of significance concerning heritage resources.

The reports are to be treated as confidential, unless otherwise authorized or specified by NCN in consultation with the Manitoba Historic Resources Branch.

A summary of the report will be prepared by the Project Archaeologist, working with the NCN Archaeologist and will be provided to the Resident Manager. The report will not normally contain confidential information but will contain information required by the Resident Manager in order to fulfill regulatory and managerial responsibilities.

The NCN Archaeologist and the Project Archaeologist will meet at least semi-annually with the Manitoba Historic Resources Branch, the NCN Wuskwatim Implementation Coordinator and the Resident Manager to review the reports.

7.0 Glossary of Terms

Artifacts – Any object that has been made or modified by a human being.

Caches – Rock features in which supplies were stored

Diagnostics Any artifact that provides information as to cultural affiliation or age.

In situ - An artifact is found in the exact spot that it was probably deposited at some time in the past.

Matrix – The consistency and quality of the soil.

Morphology – The form, structure and method by which an object is created

Ochre – An earthy clay colored by iron oxide – usually red, but can be yellow.

Provenance – the complete documented history of a heritage object .

Provenience – the original place of an artifact. Can be measured by two or three-points.

Radiocarbon dating – a method of absolute dating in which the carbon 14 is measured.

Stratum – a layer of soil that is distinct and separate from that above and below it .

Way-markers – A sign or feature that marks a portage or trail or announces a change in direction.

ATTACHMENT “A”

Examples of Features of Potential Interest

The following are some examples of features that may be encountered in the field that have the potential to be of archaeological interest. In some cases, it also describes some of the steps that typically would be taken in circumstances where a site may be of archaeological interest. The description of the typical steps is provided for information only. The steps described in these examples should only be undertaken under the direction of the Project Archaeologist and the NCN Archaeologist.

When the features described in these examples are encountered in the field, or when it is otherwise believed that a site potentially may be of archaeological interest, a project supervisor, manager or AKO should be contacted.

Note: Smoking is not allowed at archaeological sites because of the contamination that may occur to datable organic samples.



Soil Stains – Red

Ochre or rust stains can be found in the soil. They can be the result of oxidized metal fragments or nails, red ochre nodules or indications of a burial. Do not remove any **artifacts** until the following evaluation occurs.

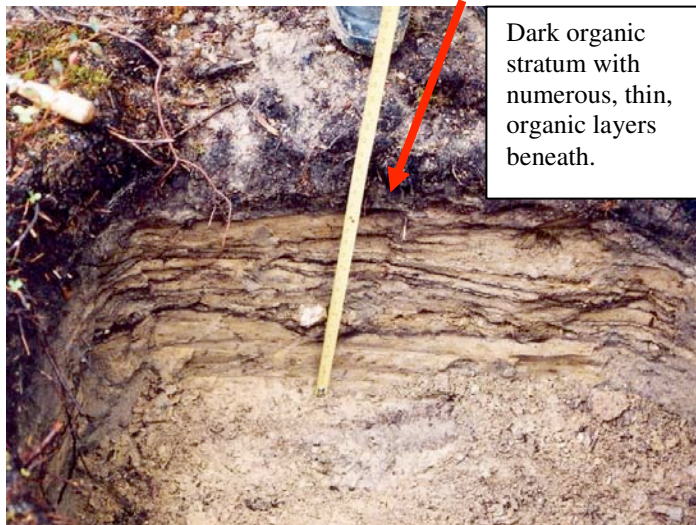
Gently outline the stain by placing the tip of the trowel into the earth so that the configuration is visible. Measure size of feature – length, width, depth, shape. Photograph.

Profile the feature by slicing down through the edge of the stain to check for depth and associated cultural material.

If no artifacts are found slice down through

the middle of the stain to check for depth and associated cultural material. Photograph, **provenience**, and take soil sample.

If artifacts such as nails are found, check for associated wood/charcoal fragments. If bone is found, determine its type, i.e. fish, bird, reptile, amphibian, mammal or human. If bone is determined to be human or is not easily identifiable, stop work at this location and follow Heritage Resource Protection Plan (“HRPP”) guidelines., After identification has been made and the bone is determined NOT to be human, continue to gently expose the feature profile, moving towards the middle. Follow EPP guidelines for removing artifacts.



Soil Stains - Black

Black soil stains are indicative of either forest fire burn or human activity or both. Often the burn **stratum** will contain a living floor that has also been burned by forest fire. Cultural strata can vary from 3 cm to 15 cm in depth depending on the length of occupation at the site. If black strata are present expose the profile by cross section. Record the depth below surface (dbs), thickness, length (i.e. does it extend past the boundaries of the excavation?)

Occasionally cultural occupations located 15-30 cm below the present day surface

cover are found. The presence of burned bone, fire-cracked rock, stone chips, pottery and other object may be found in the wall profile. Check soil **matrix** & record.



The overburden should be removed – gently by mechanical equipment or by shovel-shaving in 5 cm levels until the cultural living floor is exposed. Soil stains, features etc. are to be photographed, measured, drawn to scale and a sample collected. A representative sample of artifacts will be collected. All **diagnostics** are to be collected.



Soil Stains - White

Soil staining can also be found in the form of charcoal flecks and ash from a hearth or fire pit. In this planview photo charcoal and organic staining is found in a white ash fire pit. The length, width and depth of the feature will be recorded. A cross-section profile will be taken with full measurements. If possible 100 gms of charcoal will be collected for **radiocarbon dating**. Use surgical gloves to remove the charcoal. Wrap the sample in two layers of aluminum foil.

Place in plastic bag. Record GPS coordinates and three-point provenience measurements.



Occasionally the ground will play tricks on the human eye. In the case of this photo a clump of sod and a piece of driftwood take on the shape of a woolly mammoth head.



Stone Features

There are many different kinds of stone alignments that have been constructed by humans: **Way-markers, caches,** ceremonial sites, dwelling foundations and tepee rings, and burials are the major rock features that are found during archaeological investigations. In this photo an unidentified rock feature was found during low water levels at the Wuskwatim Project site.



When stone features are found expose the feature, clean the surface of the stones with a soft brush, and remove any twigs, grass tufts and roots from the feature.

Photograph. Measure the feature. Using graph paper, draw to scale the feature as accurately as possible. If the feature is to be removed, use transit and stadia to map in the feature. Number each stone using

a china marker, ensuring that the same number is recorded on the scaled drawing. Record, provenience and collect any artifacts that are found within the feature. Watch for changes in the soil matrix. If human bone is found associated with the stone feature halt investigations immediately and follow protocol established for found human remains. (See Section 5.2, “High



Skeletal Elements

In just about every archaeological site, bone of some sort is going to be recovered. If the bone is identified as mammal, fish or bird it can mean different things. 1.) The animal died at the site of its finding. If bones are found articulated, that is in their natural, anatomical arrangement then the animal probably died a natural death. 2.) If bones are found disarticulated, that is only parts of the skeleton are present then the animal was butchered elsewhere and carried to the present location. If fish bone are found a distance away from water it may be that the fish was caught by a bird such as an osprey or eagle, or by a bear or other fish-eating mammal, or by a human. Otters usually eat their meals by the water.

In this photo mammal bone has been exposed in a shovel test pit. The dark organic staining could be the result of decomposition of the animal or human activity site such as animal butchering. The bones need to be checked for cut

marks – stone versus steel marks, location and accuracy of cut marks, human modification of bone for ceremonial or functional purposes.



Bone was also an important material for tool manufacture. Common bone tools include fleshers and beamers fashioned from large mammal long bones, barbed spear points and harpoons, awls and needles.

Bird bone at a site can indicate the kinds of birds that were being used as food. The ulna of swans, eagles and other large birds were used for bird whistles. Other parts of the bird such as talons occasionally are found.



Monitoring excavation by machinery

When monitoring any sub-surface excavation all safety equipment must be worn (hard hat, steel-toed boots, safety glasses, vest). Work out a routine with the machine operator so that he/she knows when you need to climb down into the excavated area to examine the soil. If the excavation is over 1 metre in depth ensure that cribbing or some support is in place. Depending on location, soil depth can vary from a few centimeters to several metres. In most cases the top 50 cm will contain

evidence of cultural occupations. Monitor the soil to this point, checking for any changes in the matrix as well as artifact distribution. As the soil is removed, rake through it for any potential artifacts. Collect these in the same manner as noted above. Continue to record changes to soil.



If cultural material is found, have the equipment operator pull away the surrounding top soil in order to expose any possible cultural material adjacent to the excavated area. Be aware of your surroundings at all times.



Culturally modified trees

Occasionally evidence of past cultural practices is found in the form of modified trees such as the birch trees noted in this photograph. Birch bark was used for many purposes such as storage baskets, canoes and more recently, birch-bark biting crafts.

Record the coordinates for these sites and photograph



In this photo, cut wood has been used to construct an animal trap. Different kinds of wood traps were used for different animals.

Large deadfalls are not commonly found these days.

Record the coordinates for these sites and photograph.

Metal and Glass Objects

Often metal objects are found abandoned along old portage routes, former dog trails and at long-forgotten cabin sites. This old, blue enameled kettle was found



in the hollow of a tree with tin cups nestled inside. The way that metal tins were constructed can be dated.

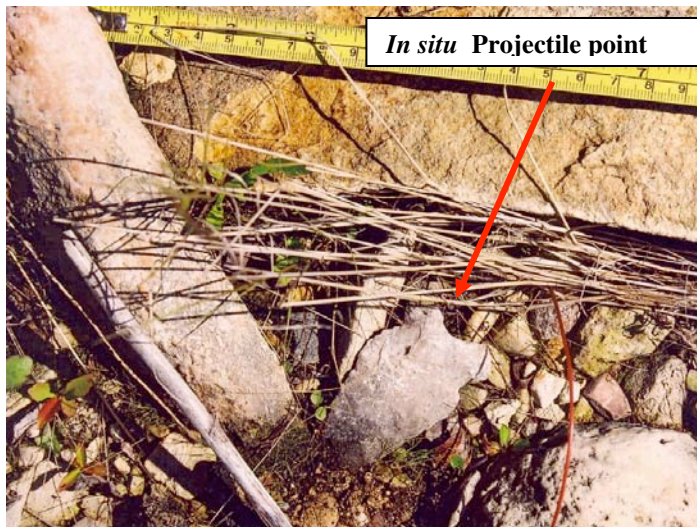
Glass fragments can also be identified as belonging to a certain time period. The **morphology** and markings on bottles help archaeologists to date sites.



taken. The site will then be GPSed. No surface collection will take place until the Project Archaeologist and the NCN Archaeologist are present.

Structural features

The manner in which structural features are constructed can be dated. If such features are encountered the Project Archaeologist and the NCN Archaeologist will be contacted and will supervise the recording of the data. The reason for this is that there are very few examples of aboriginal architecture and care needs to be taken to ensure that all measurements are recorded accurately. All structural features can be photographed and rough measurements



In situ Artifacts

Projectile points such as this Oxbow Point have been recovered from the Wuskwatim Lake area.

Before collection, the artifact will be photographed and the surrounding vegetation and soils described in detail.

If a diagnostic artifact is found during a controlled surface collection, the recovery of the artifact will not take place until mapping is complete.

At each artifact place a pink flag in the ground which will identify the artifact location. Do this for every artifact that is noted. Map each flag using chain and compass, numbering each flag sequentially. Once each artifact location is recorded the artifacts can be removed and placed in individual plastic bags with the appropriate number and details recorded in permanent felt marker on the exterior of the bag.



Native pottery has also been found in the Wuskwatim Lake area. The pottery was made of local clays mixed with bone, shell or crushed rock temper. Two main types of pottery are found here: Laurel (Initial Woodland) and Selkirk (Terminal Woodland). Laurel pottery is coiled, conical in shape, has a smoothed body surface and is decorated with incised designs. Selkirk pottery is laminated, globular, has a fabric-impressed body surface and decorated with cord-wrapped stick. Both occasionally also display

punctuates.

Most often only fragments of a vessel are recovered. The most important part is the rim because this is the area where the designs are located. The designs help to relative date the archaeological site. The same procedure is followed for removing ceramics as with other artifacts.



In this photo pottery has been found in the wall of an excavation unit. Note the fabric-impressed pattern.

Schedule "B"

- PROVINCE OF MANITOBA -

POLICY CONCERNING THE REPORTING, EXHUMATION, AND REBURIAL OF FOUND HUMAN REMAINS

PURPOSE

To delineate a policy with respect to the protection and preservation of found human remains, including the reporting, exhumation and reburial of such remains, consistent with the provisions of *The Heritage Resources Act*.

DEFINITIONS

The definition of human remains, for the purposes of this document, is that provided in *The Heritage Resources Act*, which reads as follows:

"human remains" means remains of human bodies that in the opinion of the Minister have heritage significance and that are situated or discovered outside a recognized cemetery or burial ground in respect of which there is some manner of identifying the persons buried therein;

It is common to find cultural heritage objects, or "artifacts", associated with human remains, or as parts of grave furniture (coffins, etc.). These heritage objects, termed "grave goods" by archaeologists, are integral to the formulation of policy and procedures relative to the handling of human remains.

LEGAL PROVISIONS

The legal provisions for human remains and associated heritage objects under *The Heritage Resources Act* are as follows:

- A. Where the Minister of Manitoba Culture, Heritage and Citizenship has reason to believe that heritage resources or human remains are likely to be damaged or destroyed by land development, the Minister may require that the development be stopped. If the development has not yet started, the Minister can order that it not be started. The Minister can then require the developer to submit an application for a heritage permit authorizing the development. If, after considering the permit application, the Minister is still of the opinion that heritage resources and/or human remains are likely to be disturbed or destroyed by the development, the Minister can require the developer to submit a heritage resource impact assessment and/or development plan, and any other information required. The impact assessment, development plan or other information is to be prepared at the cost of the developer (Subsection 12:2);
- B. If the impact assessment demonstrates to the Minister's satisfaction that the development will damage or destroy heritage objects or human remains, the Minister may
 - 1) approve the development, on the condition that the plan of development be altered to avoid damage or destruction of the objects or remains, and/or

- 2) require the developer to mitigate, at his/her own expense, impacts on the objects or remains (usually by archaeological excavation of same) and any subsequent restoration or maintenance of the objects or remains (Subsection 13:1);
- C. The property in, and the title and right of possession to, any human remains found by any person after May 3, 1967, is and vests in the Crown (section 45);
- D. Anyone who finds an object that is believed to be a heritage object, or remains that are believed to be human remains, is required to report the find promptly to the Minister. The finder must not handle, disturb or do anything to the object or to the remains except in accordance with the Minister's directions (Section 46);
- E. Where the Minister has reason to believe that there are heritage objects or human remains on or under the land, and that they are likely to be damaged or destroyed by commercial, industrial, agricultural, residential or construction activity, the Minister may enter into an agreement with the owner of the land or the person undertaking the activity respecting the searching for, and the excavation, investigation, examination, preservation and removal of any heritage objects or human remains found on or under the land (Section 50);
- F. No person shall destroy, damage or alter any heritage object, whether or not the person is the owner thereof, nor any human remains (Section 51);
- G. No person shall search or excavate for heritage objects or human remains except pursuant to a heritage permit and in accordance with such terms and conditions the Minister may prescribe in the heritage permit (Section 53). The administration of *The Heritage Resources Act* is the responsibility of the Historic Resources Branch, Manitoba Culture, Heritage and Citizenship. Accordingly, the protection, preservation and disposition of found human remains and associated heritage objects will be overseen by staff of the Historic Resources Branch.

***POLICY RESPECTING THE REPORTING, EXHUMATION
AND REBURIAL OF FOUND HUMAN REMAINS***

1. No human remains should be disturbed or removed from their original resting place unless removal is unavoidable and necessary.
2. Reporting - Pursuant to Section 46 of *The Heritage Resources Act*, anyone who accidentally uncovers human remains, or material considered by the person(s) uncovering them to be human remains, shall immediately cease work and contact the Historic Resources Branch. Neither the remains, nor any associated artifacts shall be further disturbed until the arrival of personnel designated by the Historic Resources Branch as appropriately qualified to take further action with respect to the exhumation and removal of human remains and associated artifacts.

3. Where human remains may be traced to a particular cultural group, procedures with regard to exhumation, identification and reburial, as outlined below, will be reviewed with that community.
4. Exhumation - Personnel designated by the Historic Resources Branch shall carry out the exhumation and removal in accordance with professional archaeological standards. Out of respect for the found human remains, such work will be conducted as much as possible out of the public eye.
5. Identification of Human Remains - Identification procedures such as non-destructive analysis to determine tribal affiliation, physical characteristics, age, sex, or ethnic ancestry and cause of death, injuries and pathologies shall only be carried out by qualified personnel designated by the Historic Resources Branch.
6. Reburial:
 - A) Following identification, all human remains shall be immediately reburied in a place that will not be disturbed by subsequent or foreseeable land development or natural erosion.
 - B) Where identification procedures have:
 - (i) not traced the found human remains to a particular cultural group,
 - (ii) no cultural group expresses an interest,the found human remains will be reburied in a location determined by the Province.
 - C) Where it can be established that the found human remains can be clearly traced to an existing cultural group, an appropriate organization representing that group will be consulted regarding reinterment in a recognized cemetery.

Schedule “C”

Determining Whether found Human Remains are Aboriginal Human Remains that are not Required for Forensic Purposes

Purpose

This Schedule outlines the criteria and processes for determining what are “Aboriginal human remains that are not required for forensic purposes” for the purpose of the “Protocol for the Protection of Heritage Resources and Aboriginal Human Remains Related to the Wuskwatim Generating Project”. This process is to be interpreted in a manner consistent with *The Heritage Resources Act* and Manitoba’s *Policy Concerning the Reporting, Exhumation, and Reburial of Found Human Remains* (1987) (the Burials Policy) to ensure any contemplated transfer of ownership is consistent with the definitions found within provincial legislation and policy.

Criteria

Found human remains are not required for forensic purposes where those human remains are not subject to any requirements of the criminal law or other laws, including, but not limited to *The Fatality Inquiries Act*, that relate to examination of human remains for forensic purposes. Human remains are Aboriginal human remains where they are:

- situated in a recognized burial ground which is recognized to be Aboriginal; or
- situated or discovered outside a recognized cemetery or burial ground in respect of which there is some manner of identifying the persons buried within and by which identification of the remains or archaeological examination of the original context of burials, or both, are determined to be Aboriginal; or
- by which identification of the remains or archaeological examination of the original context of burial, or both, are determined to be of an antiquity or nature so as to pre-date the presence of non-Aboriginal persons.

Processes

Note: This Schedule sets out general steps that would normally apply to finds of skeletal elements believed to be human remains. This Schedule only applies to processes relating to the Wuskwatim Generation Project, which will occur on lands of the Wuskwatim Power Limited Partnership and so this process applies to those lands only and not to Crown lands or First Nation reserve lands.

Step One: Discovery and Notification

The following occurs within the following order:

An Initial Discovery of human remains or suspected human remains is made.

Initial Discovery is Reported to the Project Archaeologist and to the NCN Wuskwatim Implementation Coordinator, who will notify NCN Chief and Council and the NCN Archaeologist.

Identification of remains of human or non-human is made by Project Archaeologist in consultation with the NCN Archaeologist.

Discovery is reported. If determined to be human remains, or uncertain whether human remains, report of the discovery is made by the Project Archaeologist to: Historic Resources Branch, NCN Chief and Council or their designate, RCMP / Office of Chief Medical Examiner.

Discovery site is attended by representatives of Historic Resources Branch, NCN Chief and Council or their designate, RCMP / Office of Chief Medical Examiner along with the Project Archaeologist and the NCN Archaeologist.

Identification of remains as non-human: site particulars, if archaeological, are recorded by the Project Archaeologist working with the NCN Archaeologist and HRB, there are no further concerns for human remains.

Identification of remains as human: proceed to Step Two and carry out the procedures as expeditiously as possible.

Step Two: Identification

Remains are identified as human: process begins to determine proper jurisdiction.

Remains are determined to be forensic: RCMP / Chief Medical Examiner has immediate jurisdiction.

Where it is not immediately determined whether the remains are forensic or non-forensic: remains are placed under jurisdiction of RCMP / Chief Medical Examiner and removed for further study until determined to be either forensic or non-forensic. Results of further investigation determine disposition: if determined to be forensic, then the human remains are under the jurisdiction of the RCMP/Chief Medical Examiner; if human remains are determined to be non-forensic, the process followed is in accordance with steps outlined below.

Remains are non-forensic: HRB and NCN both have possible interests/jurisdiction and agree to follow the processes set out below:

- In the event that **Human remains can not be immediately determined as Aboriginal or non-Aboriginal** from archaeological context: the Project Archaeologist working with the NCN Archaeologist and HRB will oversee the terms and conditions of additional identification procedures to be undertaken by qualified physical anthropologists, unless the human remains have been removed from the lands owned the Partnership, in which case NCN and HRB agree to jointly oversee the terms and conditions of additional identification procedures to be undertaken by qualified anthropologists.
- **Archaeological Context and/or Identification Procedures determines remains as non-Aboriginal:** HRB has immediate jurisdiction and shall work with the Project Archaeologist to , determine disposition through processes and practices established under the Burials Policy (Manitoba).
- **Archaeological Context and/or Identification Procedures determines human remains as Aboriginal, and of a non-forensic nature:** subject to the procedures to be followed in section 5.2 of the Heritage Resources Protection Plan, NCN has immediate custody, control and ownership of the Aboriginal human remains and NCN will, subject to section 5.2 of the Plan, determine the disposition of such Aboriginal human remains. NCN and HRB will jointly record the particulars of the original burial and the reburial locations which information will not be publicly disclosed without the written consent of NCN.
- **Further analysis beyond identification/physical anthropological description of found Aboriginal human remains of a non-forensic nature is determined by NCN:** the Project Archaeologist working with the NCN Archaeologist and HRB will oversee the terms and conditions of additional identification procedures to be undertaken by qualified physical anthropologists, unless the human remains have been removed from the lands owned the Partnership, in which case HRB will assist if requested by NCN to do so.

Remains are safely reburied in a location safe from future harm.