

**DIONNE  
SCHULZE**

S.E.N.C.  
AVOCATS • ATTORNEYS



**SUBMISSIONS OF THE CONSEIL DES INNU DE EKUANITSHIT TO  
THE COMMISSION OF INQUIRY RESPECTING THE MUSKRAT FALLS PROJECT  
REGARDING THE INTERPRETATION OF THE COMMISSION'S TERMS OF  
REFERENCE**

David Schulze  
DIONNE SCHULZE

February 15, 2018

## **1. Summary**

The Commission's Terms of Reference allow it to consider the following issues, among others, in carrying out its mandate:

- consultation and accommodation of Aboriginal peoples following the authorization of the Muskrat Falls Project and, more particularly, whether appropriate measures were taken to mitigate against possible adverse effects to their settled or asserted rights;
- measures taken throughout the life of the project and especially during its construction to protect the environment and, more particularly, endangered species and other wildlife.

## **2. The issue**

These submissions are in response to the public notice issued by the Hon. Richard LeBlanc in January 2018, in which the Commissioner called for submissions with respect to the interpretation of the Commission's Terms of Reference under the *Commission of Inquiry Respecting the Muskrat Falls Project Order* (the "Order").<sup>1</sup>

## **3. Facts**

The Federal Court of Appeal, ruling on Ekuanitshit's application for judicial review of the federal authorization of the Lower Churchill Project following its environmental assessment, made the following comment that is of equal application to the provincial government:

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<sup>1</sup> *Commission of Inquiry Respecting the Muskrat Falls Project Order*, NLR 101/17.

There is no doubt that the Joint Review Panel, and as a consequence the respondents in this matter [the Government of Canada and Nalcor Energy], examined... the circumstances under which the appellant [the Conseil des Innu de Ekuanitshit] could continue to participate in the process so as to ensure that its concerns were taken into consideration and, if required, accommodated. It is therefore expected that at each stage (permits, licences and other authorizations) as well as during the assessment of the adequacy of corrective measures taken by Nalcor and the relevant government authorities to address any adverse consequences of the Project, particularly on the caribou which is of interest to the appellant, the Crown will continue to honourably fulfill its duty to consult the appellant and, if indicated, to accommodate its legitimate concerns (see in this regard *Taku River* at para. 46).<sup>2</sup>

In May 2012, the province's Intergovernmental and Aboriginal Affairs Secretariat had in fact issued the attached "Aboriginal Consultation Guidelines" meant to assist Nalcor Energy and provincial regulatory departments and agencies to "discharge any duty to consult that the Province may owe" to identified Aboriginal governments and organizations, including the Innu of Ekuanitshit, before issuing "regulatory approvals" for what the province referred to as the "Lower Churchill Hydroelectric Generation Project." The Generation Project consisted of the Muskrat Falls hydroelectric plant that was actually built on the Lower Churchill River in Labrador, as well as the hydroelectric plant at Gull Island on the Lower Churchill that was authorized but never built.<sup>3</sup>

In July 2013, the province issued the virtually identical guidelines (also attached) for what it referred to as for the "Labrador-Island Transmission Link Project," the lines that ultimately connected the Muskrat Falls plant to the Island of Newfoundland. The Transmission Link Project

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<sup>2</sup> *Council of the Innu of Ekuanitshit v. Canada (Attorney General)*, 2014 FCA 189, para. 109 (emphasis added).

<sup>3</sup> *Id.*, para. 56.

was defined in the Guidelines to exclude any other project and the Guidelines were not to “apply to permits issued for components of the Project on the Island of Newfoundland.”

Each set of guidelines included a list of “Possible Project Regulatory Approval Applications,” which ranged from the most elementary, such as building permits for temporary on-site structures, to the very complex, such as alterations of bodies of water or the protection of endangered wildlife. Each set of guidelines applied a 30-day timeframe to all applications identified in Nalcor Energy’s Environmental Impact Statements.

As appears from the attached email of April 25, 2014, from Peter Madden, the Regulatory Compliance Lead for the Lower Churchill Project at Nalcor Energy, in a period of less than two years Ekuanitshit received 18 different environmental effects monitoring plans, addressing issues ranging from ice formation to species at risk protection. Provincial departments and agencies ultimately approved no less than 1,969 different permits for the construction of Muskrat Falls, the Labrador Island Link, and the Maritime Link from 2012 till June 30, 2016.<sup>4</sup>

#### **4. Interpreting the Terms of Reference**

##### **4.1. Principles of interpretation**

It is well-established that regulations, orders-in-council and delegated legislation generally should be interpreted in accordance with the modern principle of statutory interpretation.<sup>5</sup> This

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<sup>4</sup> [https://www.gov.nl.ca/ola/wp-content/uploads/laa\\_permit\\_approvals.pdf](https://www.gov.nl.ca/ola/wp-content/uploads/laa_permit_approvals.pdf)

<sup>5</sup> *Amaratunga v. Northwest Atlantic Fisheries Organization*, [2013] 3 SCR 866, 2013 SCC 66, at para 36; Ruth Sullivan, *Sullivan on the Construction of Statutes*, 6<sup>th</sup> ed. (Markham, Ont.: LexisNexis Canada, 2014), at s. 13.18.

principle states that “the words of an Act are to be read in their entire context and in their grammatical and ordinary sense harmoniously with the scheme of the Act, the object of the Act, and the intention of Parliament.”<sup>6</sup> This approach is reinforced by section 16 of the *Interpretation Act*, which provides that “every provision of an Act or regulation shall be considered remedial and shall receive the liberal construction and interpretation that best ensures the attainment of the objects of the Act, regulation, or provision according to its true meaning.”<sup>7</sup>

According to the Newfoundland and Labrador Court of Appeal, the approach mandated by the modern principle of interpretation and section 16 of the *Interpretation Act* requires that one “go beyond the plain meaning of the words” to give a contextual, purposive interpretation to the provisions in question.<sup>8</sup>

#### **4.2. The context of the entire Order**

The Commission of Inquiry respecting the Muskrat Falls Project was established to “inquire and report on a matter that the Lieutenant-Governor in Council considers to be of public concern.”<sup>9</sup>

The Terms of Reference must be read in the context of the entire Order, including the Commission's duty to consider:

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<sup>6</sup> E.A. Driedger, *Construction of Statutes*, 2<sup>nd</sup> ed. (Toronto: Butterworths, 1983), at p. 87.

<sup>7</sup> *Interpretation Act*, RSNL 1990, c I-19.

<sup>8</sup> *Newfoundland and Labrador (Information and Privacy Commissioner) v. Newfoundland and Labrador (Attorney General)*, 2011 NLCA 69, at para 28.

<sup>9</sup> *Public Inquiries Act*, 2006, SNL 2006, c P-38.1, s. 3(1).

(a) participation in the inquiry by the established leadership of Indigenous people, whose settled or asserted Aboriginal or treaty rights to areas in Labrador may have been adversely affected by the Muskrat Falls Project.

By specifically providing for the participation of Indigenous peoples and referring to the possible adverse effects on their settled or asserted rights, the Terms of Reference should be read to include, where possible, an inquiry into the central concerns raised by Indigenous people with respect to the project and its impact on their rights.

#### **4.3. The definition of the project**

The broad definition of the “Muskrat Falls Project” includes consultation with Aboriginal peoples during construction and operation, as well as environmental assessment and protection measures.

Paragraph 2(c) of the Order defines the “Muskrat Falls Project” to be the project as defined in subsection 2.1(1) of the *Energy Corporations Act*,<sup>10</sup> which includes:

- a) “the design, engineering, planning, construction, commissioning, ownership, operation, maintenance and control” of:
  - (i) the hydroelectric plant at Muskrat Falls and all associated facilities;
  - (ii) transmission lines and all related components including roads and buildings; and
  - (iii) transmission facilities;
- b) the “production, generation, storage, transmission, delivery or provision of electrical power and energy from the facilities in paragraph (a);” and

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<sup>10</sup> SNL 2007, c E-11.01.

- c) the “negotiation, conclusion, execution and performance of agreements for activities referred to in paragraphs (a) and (b), and in particular agreements respecting the:
- (i) construction, operations, maintenance and administration,
  - (ii) acquisition of easements, rights-of-way, permits, licences, certificates, consents and other authorizations,
  - (iii) engineering and procurement,
  - (iv) arrangements with aboriginal peoples,
  - (v) demobilization and decommissioning, and
  - (vi) any agreements, contracts or instruments necessary or incidental to any activity described in this paragraph.”

Thus, for the purposes of the Order, the definition of the Muskrat Falls Project includes all phases of the project from design to construction to operation. It also includes the “negotiation, conclusion, execution and performance” of arrangements with Aboriginal peoples. In the context of a major resource project, arrangements with Aboriginal peoples must include any agreements or understandings related to consultation and accommodation measures to be taken in order to protect settled and asserted rights affected by the project.

Subparagraph 2.1(1)(c)(ii) of the *Energy Corporations Act* comprises a variety of environmental “permits, licences, certificates, consents and authorizations” that were required in order to allow the project to be built, including, for example, the authorizations obtained under the *Canadian Environmental Assessment Act*<sup>11</sup> and under the *Environmental Protection Act*,<sup>12</sup> such as the

<sup>11</sup> *Canadian Environmental Assessment Act*, S.C. 1992, c. 37 (repealed, 2012, c. 19, s. 66).

<sup>12</sup> *Environmental Protection Act*, SNL 2002, c. E-14.2.

permit to alter a body of water issued pursuant to the *Water Resources Act*, which authorized the construction of the dams, powerhouse and related infrastructure.<sup>13</sup>

## **5. Argument**

Interpreted in a contextual, purposive manner, the Order's Terms of Reference allow the Commission to consider consultations with Aboriginal peoples following the authorization of the project and measures taken to protect the environment, but especially during its construction.

The fourth term of reference at paragraph 4(d) of the Order contains two branches. The first branch deals with the sufficiency and accuracy of information available to the government at the time that it decided to sanction the project. However, the second branch asks "whether the government employed appropriate measures to oversee the project." This branch of the inquiry properly focuses on oversight measures taken after the decision to sanction the project.

Given that the inquiry mandated by paragraph 4(b)(v) includes consultations, risk assessments and mitigation measures taken after the authorization of the project, with respect to the possible adverse effects of the project on the cultural heritage of aboriginal peoples and with respect to the protection of wildlife that they harvest, the inquiry mandated by paragraph 4(d) would ask whether the government employed appropriate oversight measures to ensure that those consultations and risk assessments were conducted and that the mitigation measures were implemented.

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<sup>13</sup> *Water Resources Act*, S.N.L. 2002, c. W-4.01.



Given that the definition of the “Muskrat Falls Project” includes “arrangements with Aboriginal peoples” as well as environmental assessments and mitigation measures, the inquiry mandated by paragraph 4(d) must ask whether the government employed appropriate measures to oversee arrangements with aboriginal peoples and to oversee the implementation of wildlife protection and other mitigation measures that were identified during the environmental assessment process.

In addition, the second term of reference at paragraph 4(b) of the Order includes “any risk assessments, financial or otherwise, [that] were conducted in respect of the Muskrat Falls Project, including any assessments prepared externally”: paragraph 4(b)(v). Furthermore, this inquiry also includes whether “Nalcor took appropriate measures to mitigate the risks identified”: subparagraph 4(b)(v)(C).

Thus, the second term of reference includes an inquiry into non-financial risk assessments and whether Nalcor took appropriate measures to mitigate those risks. We submit that these provisions refer to risks to the environment and to the risk of adverse effects on the asserted and settled rights of aboriginal peoples. Furthermore, the text of paragraph 4(b) indicates that the inquiry into whether Nalcor has taken appropriate measures to mitigate against those risks should be assessed to the time of the inquiry.

More specifically, the inquiry mandated by paragraph 4(b)(v) would include whether consultations and risk assessments were conducted, and what mitigation measures were taken, following the authorization of the project, with respect to the possible adverse effects of the

project on the cultural heritage of aboriginal peoples (e.g. archaeology) and with respect to the protection of wildlife that they harvest, such as caribou.

# Lower Churchill Hydroelectric Generation Project

## Aboriginal Consultation Guidelines for Regulatory Approval Applications



### Overview

These Aboriginal Consultation Guidelines (the “Guidelines”) will assist the Proponent, Nalcor Energy, and provincial regulatory departments and agencies (the “Departments”) discharge any duty to consult that the Province may owe to the Aboriginal governments and organizations identified in Appendix I before issuing regulatory approvals for the Lower Churchill Hydroelectric Generation Project (the “Generation Project”).

The Innu of Labrador will be consulted via the environmental management agreement (EMA) contemplated by section 28.7.2 of the Land Claims and Self Government Agreement-In-Principle among the federal government, the Province and the Innu Nation. Until the EMA comes into effect, the Innu of Labrador will be consulted via these Guidelines.

The Guidelines are applicable to the Generation Project, only; they are not applicable to any other project and are not to be used in any way by the Proponent or any Department to inform Aboriginal consultation activities for any other project.

The Guidelines provide general direction, only; the Intergovernmental and Aboriginal Affairs Secretariat (IGAA) will be available to provide on-going support and advice to the Proponent and Departments in using the Guidelines.

The Guidelines provide French versions of template emails (see Appendices II-IV); like the English templates, these French versions must be revised on a case-by-case basis so that they refer properly to the Applications that are the subject of the correspondence. However, it is recognized that not all government officials are sufficiently fluent in French to allow for easy revision of the French templates. In all cases, Departments ought to consult with IGAA which will arrange translation services.

Several of the Aboriginal organizations’ working language is French. If email or telephone contact is made to a government official in French by an official of an Aboriginal

organization, Departments should consult with IGAA, which will arrange for translation services.

All steps identified in the Guidelines should be followed for each Application received for a regulatory approval. When the Proponent or a Department, in consultation with IGAA, deems an Application to be *ancillary* to an Application on which the Proponent and the Department has already consulted under the Guidelines, all Aboriginal governments / organizations identified in Appendix I should be notified upon issuance of the ancillary regulatory approval.

For purposes of the Guidelines, an Application includes a written request for any permit, licence or other regulatory approval required by the Proponent for the Generation Project.

The Guidelines, and any form of consultation conducted by the Proponent or Departments pursuant to them, does not constitute acceptance or recognition of asserted Aboriginal or treaty rights. The process of consultation does not create any Aboriginal or treaty rights.

Whenever the Guidelines indicate that the Proponent or Departments are to transmit an Application(s) and any supporting information to all Aboriginal governments / organizations, use of a single email, including the template email content taken from the Appendices and any attachments to all Aboriginal governments / organizations (as a group) is encouraged.

**Date:** May 30, 2012

## Aboriginal Consultation Steps (1-5)

### Step 1

Aboriginal consultation on an Application will begin when the Proponent sends the formal Application (including background/supporting information or documentation sufficient for a Department to begin its own review, analysis and processing of that Application) to all Aboriginal governments / organizations, inviting them to review the Application and submit any comments to the appropriate Department within a defined timeframe.

The Proponent should revise the English and French versions of the *Template Email for Distribution of Applications* (APPENDIX II) to identify the Application to be enclosed for comment, the Department to which any comments should be directed and to specify the appropriate timeframe within which comments are invited.

Please see APPENDIX I for email addresses for each Aboriginal government / organization. Street / P.O. Box addresses have also been provided for reference.

### Notes for Step 1:

- There may be information related to an Application that the Proponent considers confidential. It is therefore incumbent on the Proponent to engage Aboriginal governments / organizations to pursue protection of any confidential information, should the Proponent choose to do so. The Proponent and the Aboriginal government / organization(s) may wish to consider other means of ensuring that any confidential information is protected; such means may include an Application-specific confidentiality agreement or a confidentiality agreement that applies to the entire regulatory approval process.
- All information disclosed to Aboriginal governments / organizations is for purposes of consultation on the relevant Application, only; it is not to be used for any other purpose or disclosed to any other person without the written consent of the Proponent.
- Where more than one Application is provided to Aboriginal governments / organizations for comment at the same time, the template email should be adjusted accordingly to incorporate all Applications covered by that email.

- In using the template email, the Proponent is to include both the English and unofficial French text in the body of the email.
- The email template includes a copy (cc.) block reminding the Proponent that the appropriate Department and IGAA are to be copied on all correspondence to the Aboriginal governments and organizations (see APPENDIX I for contact information). The Proponent must ensure that each email is copied to the Department and IGAA.
- When providing Aboriginal governments / organizations with an Application, the Proponent should email the Application to all Aboriginal governments / organizations together.
- If the Proponent, rather than the appropriate Department, receives any comments on an Application, those comments should be provided to the Department immediately.

### **Selection of Timeframes**

- Timeframes for return of comments to the Department shall be 15 days, 30 days or 60 days.
- A 30 day timeframe has been applied to all Applications identified in Nalcor Energy's Environmental Impact Statement as potentially required for the Generation Project (see list in Appendix V).
- Where an Application does not appear in Appendix V, the Proponent should consult the appropriate Department which will determine, in consultation with IGAA, the appropriate timeframe of 15 days, 30 days or 60 days by considering such factors as the complexity of the Application, the timeframes in which similar applications are typically approved, and the length of time required for the Department to complete its own review and analysis of the Application.
- Any variation from the above-noted process of determining timeframes should be preceded by consultation between the Department and IGAA.

## Step 2

Once the Application and associated template email is assembled, sent to all Aboriginal governments / organization and copied to the Department and IGAA, the Department should commence its internal review and analysis of the Application.

### Notes for Step 2:

- There is no reason for the Department to delay beginning its review of an Application until the timeframe for comments from Aboriginal governments / organizations has ended. However, the Department must not issue a regulatory approval prior to the end of the timeframe for comments from Aboriginal governments / organizations.
- If the Department receives a request from any Aboriginal government / organization for an extension of the prescribed timeframe, the Department must consult with IGAA to coordinate an appropriate response.
- **If the Department receives comments on an Application from an Aboriginal government / organization(s), the Department must review the comments and reconsider its initial analysis of the Application in light of those comments (see Step 5).** The Department is encouraged to contact IGAA to coordinate both the review of comments received from an Aboriginal government / organization(s), and preparation of a response.

### Step 3

When the timeframe for comments from Aboriginal governments / organizations has ended, the Department should:

(1) revise the *Template Email for Notification of End of Timeframe for Comments* (APPENDIX IV) to state the date on the email accompanying the Application, the name of the Application and the fact that the timeframe of XX days has ended. On the day that the timeframe lapses, the Department should send the email to all Aboriginal governments / organizations; and then

(2) contact IGAA to confirm whether it has received comments on the Application. If no comments have been received by either the Department or IGAA, the Department should complete its own review of the regulatory approval and proceed to Step 4.

**If any comments have been received, the Department should skip the next step and proceed to Step 5.**

#### Notes for Step 3:

- Where possible, the Department should send a single email to all Aboriginal governments / organizations at once, and copy IGAA (the Proponent need not be copied on communication undertaken in Step 3).
- If the timeframe for comment for more than one Application ends on the same day, the Department should revise the template email appropriately to include all such Applications.
- If the Department is not yet in a position to issue the regulatory approval when the timeframe for comment expires, the Department should contact IGAA to re-confirm that no comments have been received when the regulatory approval is ready to be issued. If no comments have been received, the Department should proceed to issue the regulatory approval.



## **Step 4**

The Department should revise the *Template Email for Distribution of Regulatory Approvals – No Comments* (APPENDIX III) to refer to the original cover letter and Application, and identify the enclosed regulatory approval.

### **Notes for Step 4:**

- The template email has a copy (cc.) block which indicates that the Proponent and IGAA are to be copied on the email sent to all Aboriginal governments / organizations.
- If multiple regulatory approvals are attached to an email, the Department should revise the email appropriately to refer to all associated Applications.
- In using the template email, the Department is to include both the English and unofficial French versions in the body of the email.
- As noted above, it may be difficult for the Department to revise the French template email to incorporate relevant details such as the name of the Application. The Department is asked to please engage IGAA, which will arrange assistance in revising the French version of the cover letters.

## **Step 5**

Where comments are received from an Aboriginal government / organization, the responsible Department should give full and fair consideration to the comments in its review of the Application. Within thirty (30) days of receipt of such comments the Department should provide the Aboriginal government / organization with full and fair consideration of the comments, in writing. Upon issuing its written response to the comments by email, the Department should also indicate that within seven (7) days of receipt of the Department's response, the Aboriginal government or organization may request a conference call to discuss the Department's response.

### **Notes for Step 5:**

- The Department should contact IGAA if it receives any comments related to any Application or regulatory approval, before or after the timeframe for comments has ended, even if the correspondence indicates that the Aboriginal government or organization supports or has no concerns with the Application or regulatory approval.
- If any comments are received on an Application at any time before the Department is ready to issue the associated regulatory approval, the Department should not issue the regulatory approval without first consulting IGAA.

**For Further Advice or Assistance Contact:**

Brian Harvey  
Director, Policy and Planning

t 709.729. [REDACTED]

e [brianharvey@](mailto:brianharvey@) [REDACTED]

**APPENDIX I**  
Contact Information

1. **Nalcor Energy**

[stevepellerin@...](mailto:stevepellerin@...)

Mr. Steve Pellerin  
Nalcor Energy

[REDACTED]

Fax: (709): 737-[REDACTED]

2. **Nunatsiavut Government**

[tom\\_sheldon@...](mailto:tom_sheldon@...)

Mr. Tom Sheldon  
Director, Environment Division  
Nunatsiavut Government

[REDACTED]

Fax: (709) 922-[REDACTED]

3. **NunatuKavut Community Council**

[grussell@...](mailto:grussell@...)

Mr. George Russell Jr.  
Environment and Resource Manager  
NunatuKavut Community Council

[REDACTED]

Fax: (709) 896-[REDACTED]

4. **Council of the Innu of Ekuanitshit**

[reception.conseil@...](mailto:reception.conseil@...)

Chef Jean-Charles Piétacho  
Conseil des Innus d'Ekuanishit

[REDACTED]

Fax: (418) 949-[REDACTED]

5. **Council of the Innu of Pakua Shipu**

reception [REDACTED]

Conseil des Innus de Pakua Shipu

[REDACTED]

Fax: (418) 947-[REDACTED]

6. **Council of the Innu of Unamen Shipu**

bacgeod [REDACTED]

Chef Georges Bacon

Conseil de bande des Montagnais d'Unamen Shipu

[REDACTED]

Fax: (418) 229-[REDACTED]

7. **Innu Nation of Matimekush-Lac John**

realmck [REDACTED]

Chef Réal McKenzie

Conseil de la Nation Innu Matimekush-Lac John

[REDACTED]

Fax: (418) 585-[REDACTED]

Copy to: Nadir André  
BCF LLP

[REDACTED]

Marie-Christine Gagnon  
BCF LLP

[REDACTED]

Fax: (514) 397- [REDACTED]

8. **Innu of Nutashkuan**

conseil.de.bande [REDACTED]

Chef François Bellefleur  
Conseil des Montagnais de Natashquan

[REDACTED]

Fax: (418) 726- [REDACTED]

9. **Uashat mak Mani-Utenam First Nation**

ken.rock [REDACTED]

Innu Takuaikan Uashat mak Mani-Utenam  
c/o Ken Rock

[REDACTED]

Fax: (418) 968- [REDACTED]

10. **Naskapi Nation of Kawachikamach**

kawawa [REDACTED]

Chief Louis Einish  
Naskapi Nation of Kawawachikamach

[REDACTED]


Fax: (418) 585- [REDACTED]

11. **Innu Nation**

preid [REDACTED] linnes [REDACTED]

Innu Nation  
c/o Larry Innes and Paula Reid

[REDACTED]

Fax: (709) 497-

**APPENDIX II**  
**Template Email for Distribution of Applications**  
**ENGLISH**

XX “Month” 2012

I am writing on behalf of Nalcor Energy, the proponent of the Lower Churchill Hydroelectric Generation Project (“Project”), to provide you with the enclosed application for [insert name of regulatory approval].

The Government of Newfoundland and Labrador’s [insert name of Department / Agency] is responsible for the above-noted regulatory approval (attached), which Nalcor Energy requires for the Project. Any comments you may wish to provide in relation to this Application are welcome, and should be provided to [insert Departmental contact name] of the [Department / Agency] within [XX] days of the date of this email. [Insert contact name] may be contacted by email at [insert email address] or telephone at [insert phone number].

You may also wish to consult the Department of Environment & Conservation’s Environmental Assessment website, which contains important documents related to the Project, online: <[http://www.env.gov.nl.ca/env/env\\_assessment/projects/Y2010/1305/index.html](http://www.env.gov.nl.ca/env/env_assessment/projects/Y2010/1305/index.html)>, as well as the Canadian Environmental Assessment Agency’s web registry of documents related to the Project, online: <<http://www.ceaa.gc.ca/050/05/documents-eng.cfm?evaluation=26178>>.

Please note all information disclosed to you is for your use for the purposes of consultation on the relevant Application only and is not to be used for any other purposes or disclosed to any other person without the written consent of Nalcor Energy.

The official language of the Government of Newfoundland and Labrador is English. As such, this English language email is the official and authoritative communication from Nalcor Energy to your organization. The French translation of this email is for your convenience only.

Please do not hesitate to contact the above-noted provincial Department or Agency should you have any questions or concerns regarding the information or documentation included herewith.

Sincerely,

Steve Pellerin, Nalcor Energy

cc. [Departmental contact]  
Brian Harvey, IGAA



## TRADUCTION NON OFFICIELLE

Je vous écrit au nom du Nalcor Energy (qui est promoteur du projet de centrale de production d'énergie hydroélectrique dans la partie inférieure du fleuve Churchill) concernant la jointe Demande de [insert name of regulatory approval].

Le Ministère de [insert name of Department / Agency] du gouvernement de Terre-Neuve-et-Labrador est responsable de la jointe Demande, qui Nalcor Energy a besoin pour son projet. Toute observation que vous pourriez faire à l'égard de cette demande sont les bienvenus; vous pourriez les envoyer à [insert Departmental contact name] du Ministère de [Department / Agency] dans les [XX] jours de la date de cette lettre. Vous pouvez contacter [Insert contact name] via courriel électronique [insert email address] ou téléphone [insert phone number].

Vous pouvez également consulter le site Web de l'évaluation environnementale du ministère de l'Environnement et Conservation, qui contient des documents importants liés au projet: [http://www.env.gov.nl.ca/env/env\\_assessment/projects/Y2010/1305/index.html](http://www.env.gov.nl.ca/env/env_assessment/projects/Y2010/1305/index.html), ainsi que le Régistre canadien d'évaluation environnementale, qui contient de nombreux documents liés au projet, en ligne: <http://www.ceaa.gc.ca/050/05/documents-eng.cfm?evaluation=26178>.

S'il vous plait noter que tous les renseignements communiqués à vous est pour votre utilisation à des fins de consultation sur la demande appropriée et ne doit pas être utilisé à d'autre fins ou communiquées à toute autre personne sans le consentement écrit du Nalcor Energy.

La langue officielle du gouvernement de Terre-Neuve-et-Labrador est l'anglais. En conséquence, ce courriel en anglais comprend la communication officielle et autorité du Nalcor Energy à votre organisation; la traduction française non officielle est pour plus de commodité seulement.

S'il vous plaît contacter le ministère du gouvernement de Terre-Neuve-et-Labrador noté ci-dessus si vous avez des questions ou des préoccupations à l'information ou la documentation ci-jointe.

Sincèrement,

Steve Pellerin, Nalcor Energy

cc. [Departmental contact]  
Brian Harvey, IGAA

**APPENDIX III**  
**Template Email for Distribution of Regulatory Approvals – No Comments**  
**ENGLISH**

XX [“Month”] 2012

I write further to my correspondence of [insert date of originating correspondence via which the Application was sent to the Aboriginal government or organization for comment], in which I provided a copy of Nalcor Energy’s Application for [insert name of regulatory approval] and requested that you provide any comments in relation to that Application within [insert number of days that was provided in original cover letter] days.

We have now proceeded to issue the regulatory approval related to that Application, and have enclosed a copy of same for your information.

The official language of the Government of Newfoundland and Labrador is English. As such, this English language email is the official and authoritative communication from the Government of Newfoundland and Labrador to your organization. The French translation of this email is for your convenience only.

Please do not hesitate to contact the undersigned should you have any questions or concerns regarding the information or documentation included herewith.

Sincerely,

[insert name, Department and contact information of sender]

cc. Steve Pellerin, Nalcor Energy  
Brian Harvey, IGAA

**TRADUCTION NON OFFICIELLE**

Je vous écrit à la suite de ma correspondance du [insert date of original letter enclosing Application(s)], dans laquelle je fournis une copie de la Demande de Nalcor Energy concernant [insert name of Application]; j’ai demandé que vous fournissez des commentaires à l’égard de cette demande dans les [insert number of days in time frame for comments] jours de la date de cette lettre.

Nous avons procédé à l'émission de l'autorisation à l'égard de cette demande visée, et ont joint une copie de même pour votre information.

La langue officielle du gouvernement de Terre-Neuve-et-Labrador est l'anglais. En conséquence, ce courriel en anglais comprend la communication autorité du gouvernement de Terre-Neuve-et-Labrador à votre organisation; la traduction française non officielle est pour plus de commodité seulement.

S'il vous plaît communiquer avec le soussigné si vous avez des questions ou des préoccupations à l'information ou la documentation ci-jointe.

Sincèrement,

[Insert name, Department and contact information of sender]

cc. Steve Pellerin, Nalcor Energy  
Brian Harvey, IGAA

**APPENDIX IV**  
**Template Email for Notification of End of Timeframe for Comments**

**ATTENTION:**

The timeframe for comments on [insert name of Application], which was referred on [insert date of original correspondence] has ended. The Government of Newfoundland of Labrador will now proceed to issue the applicable regulatory approval.

**ATTENTION:**

Le délai pour les commentaires sur [insert name of Application], qui a été renvoyé le [insert date of original correspondence] a expiré. Le gouvernement de Terre-Neuve-et-Labrador va maintenant procéder à délivrer le permis applicable.

## APPENDIX V

### Aboriginal Government / Organization Comment Timeframes (Possible Generation Project Regulatory Approval Applications)

Activity	Regulatory Approval	Legislative Authority	Timeframe for Aboriginal Comment
Establishment of Work Camps	Septic System Commercial – Certificate of Approval for septic systems >4,500L/day – in an unserviced area and not covered by a Municipality	Newfoundland and Labrador <i>Water Resources Act</i> , SNL 2002, c.W-4.01; <i>Environmental Control Water and Sewage Regulations</i> 2003	30 days
	Certificate of Approval for private sewage <4,546/day	Newfoundland and Labrador <i>Health and Community Services Act</i> , SNL 1995, c.P-37.1; <i>Sanitation Regulations</i>	30 days
	Certificate of Approval for Commercial Building under National Building/Fire/Life Safety Code	Newfoundland and Labrador <i>Fire Prevention Act</i> , SNL 1991 c.34 and the National Fire Code of Canada 1990	30 days
	Buildings Accessibility Design Registration or Exemption Registration Newfoundland and Labrador	Newfoundland and Labrador <i>Building Accessibility Act</i> , RSNL 1990, c.R-10, <i>Building Accessibility Regulations</i>	30 days
	Tobacco and Food Licence Application	Newfoundland and Labrador <i>Food and Drug Act</i> , RSNL 1990, c.F-21, <i>Food Premises Regulations</i>	30 days
Land Requirements	Crown Lands – Crown Land Lease/License/Permit	Newfoundland and Labrador <i>Lands Act</i> , SNL 1991 c.36	30 days
	Notice of Intent for Reservation of Shoreline	Newfoundland and Labrador <i>Lands Act</i> , SNL 1991 c.36	30 days
Waste Management Related to Construction Activities	Waste Oil – Handling and Disposal	Newfoundland and Labrador <i>Environmental Protection Act</i> , SNL 2002 c.E-14.2, <i>Used Oil Control Regulations</i>	30 days
Garbage Disposal/Waste Management	Waste Management System, Certificate of Approval	Newfoundland and Labrador <i>Environmental Protection Act</i> , SNL 2002 c.E-14.2, <i>Waste Disposal and Litter</i>	30 days

Activity	Regulatory Approval	Legislative Authority	Timeframe for Aboriginal Comment
Access Roads	Bridges, Certificate of Approval, Application for Environmental Permit to Alter a Body of Water	Newfoundland and Labrador <i>Water Resources Act</i> , SNL 2002, c.W-4.01, Section 48	30 days
	Culvert Installation, Certificate of Approval, Application for Environmental Permit to Alter a Body of Water	Newfoundland and Labrador <i>Water Resources Act</i> , SNL 2002, c.W-4.01, Section 48	30 days
	Certificate of Approval for Stream Fording, Application for Environmental Permit to Alter a Body of Water	Newfoundland and Labrador <i>Water Resources Act</i> , SNL 2002, c.W-4.01, Section 48	30 days
	Permit for Access off any Highway	Newfoundland and Labrador <i>Urban and Rural Planning Act</i> , SNL 2000, c.0-8, <i>Highway Sign Regulations</i>	30 days
Construction of Dams	Dams and Appurtenant Structures, Certificate of Approval	Newfoundland and Labrador <i>Water Resources Act</i> , SNL 2002, c.W-4.01, Section 48	30 days
Construction of Generating Facilities	Water Resources – Water Course Crossings, Certificate of Environmental Approval	Newfoundland and Labrador <i>Water Resources Act</i> , SNL 2002, c.W-4.01, Section 48	30 days
	Construction (Site Drainage) Certificate of Approval	Newfoundland and Labrador <i>Water Resources Act</i> , SNL 2002, c.W-4.01, Section 48	30 days
Stream Crossings/ Fording	Water Resources – Water Course Crossings, Certificate of Environmental Approval	Newfoundland and Labrador <i>Water Resources Act</i> , SNL 2002, c.W-4.01, Section 48	30 days
Fuel Storage	Fuel Storage & Handling – Temporary Storage Remote Locations	Newfoundland and Labrador <i>Environmental Protection Act</i> , SNL 2002, c.E-14.2, <i>Storage and Handling of Gasoline and Associated Products Regulations</i> , 2003	30 days
	Fuel Storage & Handling – A Permit Flammable & Liquid Storage & Dispensing (above or below ground) & for Bulk Storage (above ground only)	Newfoundland and Labrador <i>Environmental Protection Act</i> , SNL 2002, c.E-14.2, <i>Storage and Handling of Gasoline and Associated Products Regulations</i> , 2003, and <i>Fire Prevention Act</i> , SNL 1991, c.34	30 days
Potable Water Supply	Water Resources – License to Drill Water Wells	Newfoundland and Labrador <i>Water Resources Act</i> , SNL 2002, c.W-4.01, <i>Well Drilling Regulations</i>	30 days

Activity	Regulatory Approval	Legislative Authority	Timeframe for Aboriginal Comment
Water Supply for Camp/Work Site	Water Resources – General Application for Water Use Authorization – for all beneficial uses of water from any source – Application for Permit for Using Ground Water for Non-Domestic Uses	Newfoundland and Labrador <i>Water Resources Act</i> , SNL 2002, c.W-4.01	30 days
Water Use	Water Use Authorization	Newfoundland and Labrador <i>Water Resources Act</i> , SNL 2002, c.W-4.01	30 days
	Approval for Water Supply System	Newfoundland and Labrador <i>Water Resources Act</i> , SNL 2002, c.W-4.01	30 days
Construction Activities	Operating Permit/Fire Season – Crown or private land for a company or individual to operate during forest fire season	Newfoundland and Labrador <i>Forestry Act</i> , RSNL 1990, c.F-23, <i>Forest Fire Regulations</i>	30 days
	Permit to Cut Crown Timber – A permit is required for commercial or domestic cutting of timber on Crown land	Newfoundland and Labrador <i>Forestry Act</i> , RSNL 1990, c.F-23, <i>Cutting of Timber Regulations</i>	30 days
	Permit to Burn	Newfoundland and Labrador <i>Forestry Act</i> , RSNL 1990, c.F-23, <i>Forest Fire Regulations</i>	30 days
	Letter of Advice to New Construction Project or Industrial Enterprise	Newfoundland and Labrador <i>Forestry Act</i> , RSNL 1990, c.O-3	30 days
Borrow Pits and Rock Quarries	Quarry Development Permit – A permit is required to dig for, excavate, remove and dispose of any Crown quarry material	Newfoundland and Labrador <i>Quarry Minerals Act</i> , SNL 1999, c.Q-1.1	30 days
Control of Nuisance Wildlife	Control of Nuisance Wildlife Black Bear Protection Permit/Permit to Destroy Problem Animals	Newfoundland and Labrador <i>Wildlife Act</i> , RSNL, c.W-8, <i>Wildlife Regulations</i>	30 days
Highway Signage	Signs – Highway Services Fingerboard Signs, Approval	Newfoundland and Labrador <i>Urban and Rural Planning Act</i> , SNL 2000, c.U-8, <i>Highway Sign Regulations</i>	30 days
Temporary Diesel Generation and Permanent Emergency Diesel Generation	Permit to Operate Temporary Diesel Generator	Newfoundland and Labrador <i>Environmental Protection Act</i> , SNL 2000, c.E-14.2, <i>Air Pollution Control Regulations</i>	30 days
Environmental Protection Plan (EPP)	Approval of EPP by Minister of Environment and Conservation	Newfoundland and Labrador <i>Environmental Protection Act</i> , SNL 2002, c.E-14.2	30 days

Source: Nalcor Energy, *Lower Churchill Hydroelectric Generation Project Environmental Impact Statement: Project Planning and Description* (Vol. 1, Part B), online: Table IB-G-1 <<http://www.nalcorenergy.com/assets/eisvol1bii.pdf>>.

# Labrador-Island Transmission Link Project

## Aboriginal Consultation Guidelines for Regulatory Approval Applications



### Overview

These Aboriginal Consultation Guidelines (the “Guidelines”) will assist the Proponent, Nalcor Energy, and provincial regulatory departments and agencies (the “Departments”) discharge any duty to consult that the Province may owe to the Aboriginal governments and organizations identified in Appendix I before issuing regulatory approvals for the Labrador-Island Transmission Link Project (the “Project”).

The Guidelines are applicable to the Project, only; they are not applicable to any other project and are not to be used in any way by the Proponent or any Department to inform Aboriginal consultation activities for any other project.

The Guidelines will not apply to permits issued for components of the Project on the Island of Newfoundland.

The Guidelines provide general direction, only; the Intergovernmental and Aboriginal Affairs Secretariat (IGAA) will be available to provide on-going support and advice to the Proponent and Departments in using the Guidelines.

The Guidelines provide French versions of template emails (see Appendices II-IV); like the English templates, these French versions must be revised on a case-by-case basis so that they refer properly to the Applications that are the subject of the correspondence. However, it is recognized that not all government officials are sufficiently fluent in French to allow for easy revision of the French templates. In all cases, Departments ought to consult with IGAA which will arrange translation services.

Several of the Aboriginal organizations’ working language is French. If email or telephone contact is made to a government official in French by an official of an Aboriginal organization, Departments should consult with IGAA, which will arrange for translation services.



All steps identified in the Guidelines should be followed for each Application received for a regulatory approval. When the Proponent or a Department, in consultation with IGAA, deems an Application to be ancillary, due its routine nature or due to it being incidental to an Application on which the Proponent and the Department has already consulted under the Guidelines, all Aboriginal organizations identified in Appendix I should be notified upon issuance of the ancillary regulatory approval, and provided with a copy of the issued permit. Efforts have been made to identify ancillary applications in Appendix V.

For purposes of the Guidelines, an Application includes a written request for any permit, licence or other regulatory approval required by the Proponent for the Project.

The Guidelines, and any form of consultation conducted by the Proponent or Departments pursuant to them, does not constitute acceptance or recognition of asserted Aboriginal or treaty rights. The process of consultation does not create any Aboriginal or treaty rights.

Whenever the Guidelines indicate that the Proponent or Departments are to transmit an Application(s) and any supporting information to all Aboriginal governments / organizations, use of a single email, including the template email content taken from the Appendices and any attachments to all Aboriginal governments / organizations (as a group) is encouraged.

**Date:** 02 July 2013

## Aboriginal Consultation Steps (1-5)

### Step 1

Aboriginal consultation on an Application will begin when the Proponent sends the formal Application (including background/supporting information or documentation sufficient for a Department to begin its own review, analysis and processing of that Application) to all Aboriginal governments / organizations, inviting them to review the Application and submit any comments to the appropriate Department within a defined timeframe.

The Proponent should revise the English and French versions of the *Template Email for Distribution of Applications* (APPENDIX II) to identify the Application to be enclosed for comment, the Department to which any comments should be directed and to specify the appropriate timeframe within which comments are invited.

Please see APPENDIX I for email addresses for each Aboriginal government / organization. Street / P.O. Box addresses have also been provided for reference.

#### Notes for Step 1:

- There may be information related to an Application that the Proponent considers confidential. It is therefore incumbent on the Proponent to engage Aboriginal governments / organizations to pursue protection of any confidential information, should the Proponent choose to do so. The Proponent and the Aboriginal government / organization(s) may wish to consider other means of ensuring that any confidential information is protected; such means may include an Application-specific confidentiality agreement or a confidentiality agreement that applies to the entire regulatory approval process.
- All information disclosed to Aboriginal governments / organizations is for purposes of consultation on the relevant Application, only; it is not to be used for any other purpose or disclosed to any other person without the written consent of the Proponent.
- Where more than one Application is provided to Aboriginal governments / organizations for comment at the same time, the template email should be adjusted accordingly to incorporate all Applications covered by that email.

- In using the template email, the Proponent is to include both the English and unofficial French text in the body of the email.
- The email template includes a copy (c.c.) block reminding the Proponent that the appropriate Department and IGAA are to be copied on all correspondence to the Aboriginal governments and organizations (see APPENDIX I for contact information). The Proponent must ensure that each email is copied to the Department and IGAA.
- When providing Aboriginal governments / organizations with an Application, the Proponent should email the Application to all Aboriginal governments / organizations together.
- If the Proponent, rather than the appropriate Department, receives any comments on an Application, those comments should be provided to the Department immediately.

### **Selection of Timeframes**

- A 30 day timeframe has been applied to all Primary Applications identified in Nalcor Energy's Environmental Impact Statement as potentially required for the Transmission Project (see list in Appendix V).
- Where an Application does not appear in Appendix V, the Proponent should consult the appropriate Department which will determine, in consultation with IGAA, the appropriate timeframe by considering such factors as the complexity of the Application, the timeframes in which similar applications are typically approved, and the length of time required for the Department to complete its own review and analysis of the Application.
- Any variation from the above-noted process of determining timeframes should be preceded by consultation between the Department and IGAA.

## Step 2

Once the Application and associated template email is assembled, sent to all Aboriginal governments / organization and copied to the Department and IGAA, the Department should commence its internal review and analysis of the Application.

### Notes for Step 2:

- There is no reason for the Department to delay beginning its review of an Application until the timeframe for comments from Aboriginal governments / organizations has ended. However, the Department must not issue a regulatory approval prior to the end of the timeframe for comments from Aboriginal governments / organizations.
- If the Department receives a request from any Aboriginal government / organization for an extension of the prescribed timeframe, the Department must consult with IGAA to coordinate an appropriate response.
- **If the Department receives comments on an Application from an Aboriginal government / organization(s), the Department must review the comments and reconsider its initial analysis of the Application in light of those comments (see Step 5).** The Department is encouraged to contact IGAA to coordinate both the review of comments received from an Aboriginal government / organization(s), and preparation of a response.

### Step 3

When the timeframe for comments from Aboriginal governments / organizations has ended, the Department should:

(1) revise the *Template Email for Notification of End of Timeframe for Comments* (APPENDIX IV) to state the date on the email accompanying the Application, the name of the Application and the fact that the timeframe of XX days has ended. On the day that the timeframe lapses, the Department should send the email to all Aboriginal governments / organizations; and then

(2) contact IGAA to ascertain whether it has received comments on the Application. If no comments have been received by either the Department or IGAA, the Department should complete its own review of the regulatory approval and proceed to Step 4.

**If any comments have been received, the Department should skip Step 4 and proceed to Step 5.**

#### Notes for Step 3:

- In using the template email, the Department is to include both the English and unofficial French versions in the body of the email.
- Where possible, the Department should send a single email to all Aboriginal governments / organizations at once, and copy IGAA.
- If the timeframe for comment for more than one Application ends on the same day, the Department should revise the template email appropriately to include all such Applications.
- If the Department is not yet in a position to issue the regulatory approval when the timeframe for comment expires, the Department should contact IGAA to re-determine whether comments have been received by the time the regulatory approval is ready to be issued. If no comments have been received, the Department should proceed to issue the regulatory approval.

## Step 4

The Department should revise the *Template Email for Distribution of Regulatory Approvals – No Comments* (APPENDIX III) to refer to the original cover letter and Application, and identify the enclosed regulatory approval.

### Notes for Step 4:

- In using the template email, the Department is to include both the English and unofficial French versions in the body of the email.
- The template email has a copy (c.c.) block which indicates that the Proponent and IGAA are to be copied on the email sent to all Aboriginal governments / organizations.
- If multiple regulatory approvals are attached to an email, the Department should revise the email appropriately to refer to all associated Applications.

## Step 5

Where comments are received from an Aboriginal government / organization, the responsible Department should give full and fair consideration to the comments in its review of the Application. Within thirty (30) days of receipt of such comments the Department should provide the Aboriginal government / organization with full and fair consideration of the comments, in writing. Upon issuing its written response to the comments by email, the Department should also indicate that within seven (7) days of receipt of the Department's response, the Aboriginal government or organization may request a conference call to discuss the Department's response.

### Notes for Step 5:

- The Department should contact IGAA if it receives any comments related to any Application or regulatory approval, before or after the timeframe for comments has ended, even if the correspondence indicates that the Aboriginal government or organization supports or has no concerns with the Application or regulatory approval.
- If any comments are received on an Application at any time before the Department is ready to issue the associated regulatory approval, the Department should not issue the regulatory approval without first consulting IGAA.

**For Further Advice or Assistance Contact:**

Brian Harvey  
Director – Aboriginal Affairs

[REDACTED]  
t 709.729 [REDACTED]

e [brianharvey](#) [REDACTED]



## APPENDIX I

### Contact Information

1. **Nalcor Energy**  
marionorgan [REDACTED]  
  
Ms. Marion Organ  
Nalcor Energy  
[REDACTED]  
  
Fax: (709): 737-[REDACTED]
2. **Nunatsiavut Government**  
tom\_sheldon [REDACTED]  
  
Mr. Tom Sheldon  
Director, Environment Division  
[REDACTED]  
  
Fax: (709) 922-[REDACTED]
3. **NunatuKavut Community Council**  
grussell [REDACTED]  
  
Mr. George Russell Jr.  
Environment and Resource Manager  
[REDACTED]  
  
Fax: (709) 896-[REDACTED]
4. **Council of the Innu of Ekuanitshit**  
reception.conseil [REDACTED]  
  
Chef Jean-Charles Piétacho  
Conseil des Innus d'Ekuanishit  
[REDACTED]  
  
Fax: (418) 949-[REDACTED]
5. **Council of the Innu of Pakua Shipu**  
reception [REDACTED]  
  
Conseil des Innus de Pakua Shipu  
[REDACTED]  
  
Fax: (418) 947-[REDACTED]

6. **Council of the Innu of Unamen Shipu**

[raybfleur@innu](mailto:raybfleur@innu)

Chef Raymond Bellefleur  
Conseil de bande des Montagnais d'Unamen Shipu

Fax: (418) 229-

7. **Innu Nation of Matimekush-Lac John**

[realmck@](mailto:realmck@) (copy [mcgagnon@](mailto:mcgagnon@) ; [daveandre1309@](mailto:daveandre1309@) )

Chef Réal McKenzie  
Conseil de la Nation Innu Matimekush-Lac John

Fax: (418) 585-

Copy to: Marie-Christine Gagnon  
BCF LLP

Fax: (514) 397-

David André

Fax: (418) 585-

8. **Innu of Nutashkuan**

[conseil.de.bande@](mailto:conseil.de.bande@)

Chef Rodrigues Wapistan  
Conseil des Montagnais de Natashquan

Fax: (418) 726-

9.

**Uashat mak Mani-Utenam First Nation**

jean-claude.pinette@ (Copy morgan.kendall@)

Innu Takuaikan Uashat mak Mani-Utenam  
c/o Jean-Claude Pinette

Fax: (418) 968-

Copy to: Morgan Kendall  
O'Reilly & Associés

Fax no. : (514) 871-

10.

**Naskapi Nation of Kawachikamach**

kawawa@ (Copy renzoni@; johnm@)

Deputy Chief Jimmy James Einish  
Naskapi Nation of Kawawachikamach

Fax: (418) 585-

Copy to: Paul Renzoni  
General Advisor  
Naskapi Nation of Kawawachikamach

Mr. John Mameamskum

11.

**Innu Nation**

preid@ linnes@

Innu Nation  
c/o Larry Innes and Paula Reid

Fax: (709) 497-

**APPENDIX II**  
**Template Email for Distribution of Applications**  
**ENGLISH**

XX “Month” 2012

I am writing on behalf of Nalcor Energy, the proponent of the Labrador-Island Transmission Link Project (“Project”), to provide you with the enclosed application for [insert name of regulatory approval].

The Government of Newfoundland and Labrador’s [insert name of Department / Agency] is responsible for the above-noted regulatory approval (attached), which Nalcor Energy requires for the Project. Any comments you may wish to provide in relation to this Application are welcome, and should be provided to [insert Departmental contact name] of the [Department / Agency] within [XX] days of the date of this email. [Insert contact name] may be contacted by email at [insert email address] or telephone at [insert phone number].

You may also wish to consult the Department of Environment & Conservation’s Environmental Assessment website, which contains important documents related to the Project ([http://www.env.gov.nl.ca/env/env\\_assessment/projects/Y2010/1407/index.html](http://www.env.gov.nl.ca/env/env_assessment/projects/Y2010/1407/index.html)), as well as the Canadian Environmental Assessment Agency’s web registry of documents related to the Project <http://www.ceaa.gc.ca/050/details-eng.cfm?evaluation=51746>.

Please note all information disclosed to you is for your use for the purposes of consultation on the relevant Application only and is not to be used for any other purposes or disclosed to any other person without the written consent of Nalcor Energy.

The official language of the Government of Newfoundland and Labrador is English. As such, this English language email is the official and authoritative communication from Nalcor Energy to your organization. The French translation of this email is for your convenience only.

Please do not hesitate to contact the above-noted provincial Department or Agency should you have any questions or concerns regarding the information or documentation included herewith.

Sincerely,

Marion Organ, Nalcor Energy

c.c. [Departmental contact]  
Brian Harvey, IGAA

## TRADUCTION NON OFFICIELLE

Je vous écris au nom du Nalcor Energy (qui est promoteur du Projet de ligne de transport d'énergie entre le Labrador et l'île de Terre-Neuve) concernant la jointe Demande de [insert name of regulatory approval].

Le Ministère de [insert name of Department / Agency] du gouvernement de Terre-Neuve-et-Labrador est responsable de la jointe Demande, qui Nalcor Energy a besoin pour son projet. Toute observation que vous pourriez faire à l'égard de cette demande sont les bienvenus; vous pourriez les envoyer à [insert Departmental contact name] du Ministère de [Department / Agency] dans les [XX] jours de la date de ce courriel. Vous pouvez contacter [Insert contact name] via courriel électronique [insert email address] ou téléphone [insert phone number].

Vous pouvez également consulter le site Web de l'évaluation environnementale du ministère de l'Environnement et Conservation, qui contient des documents importants liés au projet ([http://www.env.gov.nl.ca/env/env\\_assessment/projects/Y2010/1407/index.html](http://www.env.gov.nl.ca/env/env_assessment/projects/Y2010/1407/index.html)), ainsi que le Régistre canadien d'évaluation environnementale, qui contient de nombreux documents liés au projet (<http://www.ceaa.gc.ca/050/details-eng.cfm?evaluation=51746>).

S'il vous plaît noter que tous les renseignements communiqués à vous est pour votre utilisation à des fins de consultation sur la demande appropriée et ne doit pas être utilisé à d'autre fins ou communiquées à toute autre personne sans le consentement écrit du Nalcor Energy.

La langue officielle du Gouvernement de Terre-Neuve-et-Labrador est l'anglais. En conséquence, ce courriel en anglais comprend la communication officielle et autorité du Nalcor Energy à votre organisation; la traduction française non officielle est pour plus de commodité seulement.

S'il vous plaît contacter le Ministère du Gouvernement de Terre-Neuve-et-Labrador noté ci-dessus si vous avez des questions ou des préoccupations à l'information ou la documentation ci-jointe.

Sincèrement,

Marion Organ, Nalcor Energy

c.c. [Departmental contact]  
Brian Harvey, IGAA

**APPENDIX III**  
**Template Email for Distribution of Regulatory Approvals – No Comments**  
**ENGLISH**

XX [“Month”] 2012

I write further to Nalcor Energy’s correspondence of [insert date of originating correspondence via which the Application was sent to the Aboriginal government or organization for comment], in which Nalcor Energy provided a copy of its Application for [insert name of regulatory approval] and requested that you provide any comments in relation to that Application within [insert number of days that was provided in original cover letter] days.

We have now proceeded to issue the regulatory approval related to that Application, and have enclosed a copy of same for your information.

The official language of the Government of Newfoundland and Labrador is English. As such, this English language email is the official and authoritative communication from the Government of Newfoundland and Labrador to your organization. The French translation of this email is for your convenience only.

Please do not hesitate to contact the undersigned should you have any questions or concerns regarding the information or documentation included herewith.

Sincerely,

[insert name, Department and contact information of sender]

c.c. Marion Organ, Nalcor Energy  
Brian Harvey, IGAA

**TRADUCTION NON OFFICIELLE**

Je vous écris à la suite de la correspondance du Nalcor Energy du [insert date of original letter enclosing Application(s)], dans laquelle Nalcor Energy fournit une copie de sa Demande concernant [insert name of Application]; Nalcor a demandé que vous fournissiez des commentaires à l'égard de cette demande dans les [insert number of days in time frame for comments] jours de la date de son courriel.

Nous avons procédé à l'émission de l'autorisation à l'égard de cette demande visée, et ont joint une copie de même pour votre information.

La langue officielle du Gouvernement de Terre-Neuve-et-Labrador est l'anglais. En conséquence, ce courriel en anglais comprend la communication autorité du Gouvernement de Terre-Neuve-et-Labrador à votre organisation; la traduction française non officielle est pour plus de commodité seulement.

S'il vous plaît communiquer avec le soussigné si vous avez des questions ou des préoccupations à l'information ou la documentation ci-jointe.

Sincèrement,

[Insert name, Department and contact information of sender]

c.c. Marion Organ, Nalcor Energy  
Brian Harvey, IGAA

**APPENDIX IV**  
**Template Email for Notification of End of Timeframe for Comments**

**ATTENTION:**

The timeframe for comments on [insert name of Application], which was referred on [insert date of original correspondence] has ended. The Government of Newfoundland of Labrador will now proceed to issue the applicable regulatory approval.

**ATTENTION:**

Le délai pour les commentaires sur [insert name of Application], qui a été renvoyé le [insert date of original correspondence] a expiré. Le Gouvernement de Terre-Neuve-et-Labrador va maintenant procéder à délivrer le permis applicable.



## APPENDIX V

### Possible Project Regulatory Approval Applications

Approval Potentially Required	Legislation	Activity Requiring Approval	Department or Agency	Requirements	Primary (P) / Ancillary (A)
License to Occupy Crown Land, Crown Land Leases / Grants / Easements	<i>Lands Act</i>	Development on Crown Lands	Lands Division, Department of Environment and Conservation	Approval is required for Project Activities and infrastructure on Crown Land.	P
Certificate of Approval for any Alteration to a Body of Water	<i>Water Resources Act</i>	Any activities which may alter a water body	Water Resources Division, Department of Environment and Conservation	Permits are required for construction activities within 15 m of the high watermark of any water body. An application form is required for each alteration.	P
Certificates of Approval for any Instream Activity (including Culvert Installation, Bridges and Fording a Watercourse)	<i>Water Resources Act</i>	Any in-stream activity	Water Resources Division, Department of Environment and Conservation	Approval is required for any in-stream activity, including culvert installations and fording activities, before undertaking the work. This also includes any development within 15 m of the high watermark of any water body.	P

Certificates of Approval for Development Activity in a Protected Public Water Supply Area or Wellhead Protected Public Water Supply Area	<i>Water Resources Act</i>	Construction activity in a protected water supply	Water Resources Division, Department of Environment and Conservation	Approval is required for any activity in a protected public water supply area prior to the commencement of any work.	P
Certificate of Approval for Construction Site Drainage	<i>Water Resources Act</i>	Any run-off from the project site being discharged to receiving waters	Water Resources Division, Department of Environment and Conservation	Approval is required for any run-off from the project site being discharged to receiving waters.	P
Water Use Authorization	<i>Water Resources Act</i>	Water withdrawal for use at temporary camps or during Construction and Operations activities	Water Resources Division, Department of Environment and Conservation	Water use authorization is required for all beneficial uses of water.	A
Application for Water Well Drilling Licence	<i>Water Resources Act</i>	Drilling activity for a water well	Water Resources Division, Department of Environment and Conservation	A licence is required to carry on the business of water well drilling in Newfoundland and Labrador.	A
Application for Permit for Constructing a Non-Domestic Well	<i>Water Resources Act</i>	Establishment of a water well	Water Resources Division, Department of Environment and Conservation	A licence is required to establish a non-domestic water well in Newfoundland and Labrador.	A

Compliance Standard, Potential Permit	<i>Endangered Species Act</i>	Project Activities	Wildlife Division, Department of Environment and Conservation	Prohibits the disturbance, harassment, injury, or killing of an individual of a species designated as threatened, endangered or extirpated. The Minister may, under certain circumstances, issue a permit for an activity affecting a designated species, the residence of a specimen of a designated species or critical or recovery habitat.	P
Access to Highway Permit	<i>Urban and Rural Planning Act, Works, Services and Transportation Act</i> , Protected Road Zoning Regulations	Construction of access roads and trails	Department of Transportation and Works and, where applicable, Service NL	The construction of an access to a highway that is classified as a Protected Road requires approval.	P
Preliminary Application to Develop Land	<i>Urban and Rural Planning Act</i> , Protected Road Zoning Regulations	Construction activity	Service NL	A development permit is required to build on and develop land, whether Crown or privately owned, within the building control lines of a Protected Road or within the boundaries of a Protected Area.	P

Quarry Permit	<i>Quarry Materials Act</i> and Regulations	Extracting borrow material	Mineral Lands Division, Department of Natural Resources	A permit is required to dig for, excavate, remove and dispose of any Crown quarry material.	P
Cutting Permit Operating Permit	<i>Forestry Act</i> and Cutting of Timber Regulations	Clearing land areas for the right-of-way, borrow pits, camp sites or laydown areas	Department of Natural Resources	A permit is required for the commercial or domestic cutting of timber on crown land.	P
Permit to Burn	<i>Forestry Act</i> and Forest Fire Regulations	Any burning required during the Project	Department of Natural Resources	A permit is required to light fires outdoors between April and December. Permits are not issued during forest fire season.	A
Archaeological Research Permit	<i>Historic Resources Act</i>	Any archaeological investigations required	Provincial Archaeology Office, Department of Tourism, Culture and Recreation	A permit is required for any archaeological investigations on land or underwater.	P
Certificate of Approval for Storing and Handling Gasoline and Associated Products	<i>Environmental Protection Act</i> , and Storage and Handling of Gasoline and Associated Products Regulations	Storing and handling gasoline and associated products	Engineering Services Division, Service NL	A Certificate of Approval is required for storing and handling gasoline and associated products.	A
Fuel Cache Permit	<i>Environmental Protection Act</i> and Environmental Guidelines for Fuel Cache Operations	Temporary fuel storage	Engineering Services Division, Service NL	A permit is required for any temporary fuel storage in a remote location.	A

Permit for Storage, Handling, Use or Sale of Flammable and Combustible Liquids	<i>Fire Prevention Act</i> , and Fire Prevention Flammable and Combustible Liquids Regulations	Storing and handling flammable liquids	Engineering Services Division, Service NL	This permit is issued on behalf of the Office of the Fire Commissioner. Approval is based on a review of information provided for the Certificate of Approval for Storing and Handling Gasoline and Associated Products.	A
Certificate of Approval for Installation of a Sewage System	Sanitation Regulations, under the <i>Health and Community Services Act</i>	Sewage disposal and treatment at construction camps	Service NL	Sewage disposal systems designed, constructed or installed to service a private dwelling or a commercial or other building with a daily sewage flow less than 4,546 L must be approved by an inspector before installation.	A
Certificate of Approval for Septic Systems > 4,546 L per day and Well Approval	<i>Environmental Protection Act</i>	Sewage disposal and treatment at construction camps	Engineering Services Division, Service NL	A Certificate of Approval is required for commercial septic systems and wells in an unserved area, not covered by a municipality.	A

Certificate of Approval for a Water Withdrawal System of > 4,500 L per day	<i>Water Resources Act</i>	Water supply at temporary camps, and for use in construction activities	Water Resources Division, Department of Environment and Conservation	Certificate of Approval is required for any private water withdrawal system of 4,500 L/day or greater.	A
Certificate of Approval for Installation of Water Supply System	Sanitation Regulations, under the <i>Health and Community Services Act</i>	Water supply at temporary camps and maintenance depots	Service NL	Water supply systems designed, constructed or installed to service a private dwelling or a commercial or other building, including systems not governed by a municipal council, local service district or local water committee, must be approved by an inspector before installation.	A
Certificate of Approval for a Waste Management System	<i>Environmental Protection Act</i> and Waste Management Regulations	Waste disposal associated with Construction and Operations	Service NL	Approval is required for waste disposal ( <i>e.g.</i> , incineration or burying). Used tires must be disposed according to regulations.	A

Food Establishment Licence – Temporary Facility Permit	<i>Health and Community Services Act, Food and Drug Act and Food Premises Regulations</i>	Establishing and operating a temporary camp and kitchen facility, or using/upgrading existing facilities	Operations Division, Service NL	A licence is required to operate food premises. Where municipal services are unavailable, two copies of plans and specifications for water supply and sewage disposal must be submitted with application for a licence. Food premises are routinely inspected to ensure compliance.	A
Permit to Destroy Problem Animals	<i>Wild Life Act</i>	Dealing with nuisance wildlife	Department of Natural Resources	The Department provides direction on handling nuisance animals. Details on the situation must be provided for a permit to be issued.	A
Compliance standards; permits may be required	<i>National Fire Code</i>	On-site structures (temporary or permanent)	Service NL	Approval is required for fire prevention systems in all approved buildings.	A
Compliance standards; permits may be required	<i>National Building Code</i>	On-site structures (temporary or permanent)	Service NL	Approval is required for all building plans.	A

Source: Nalcor's Environmental Impact Statement – Labrador-Island Transmission Link Project – Volume 1. Retrieved from: [http://www.env.gov.nl.ca/env/env\\_assessment/projects/Y2010/1407/component\\_studies/ch\\_3\\_appendix.pdf](http://www.env.gov.nl.ca/env/env_assessment/projects/Y2010/1407/component_studies/ch_3_appendix.pdf).

## David Schulze

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**From:** Peter Madden <auto-reply-lhr@[REDACTED]>  
**Sent:** Friday, April 25, 2014 2:53 PM  
**To:** David Schulze  
**Subject:** NE-LCP-MEMO-000620: LCP Documentation: Environmental Effects Monitoring Plans - Resubmission ACNXREF<M5ASU6oM9MontwgKhIJJB>

Dear David,

You have received a new **Memorandum: NE-LCP-MEMO-000620**

**Project:** LCP Permits  
**Type:** Memorandum  
**Mail Number:** NE-LCP-MEMO-000620  
**To:** **David Schulze, Council of the Innu of Ekuanitshit**  
Jean-Charles Piétacho, Council of the Innu of Ekuanitshit  
**Cc:** Brian Harvey , Department of Intergovernmental and Aboriginal Affairs  
Paul Carter, Environment & Conservation NL  
Bas Cleary, Environment & Conservation NL  
John Blake, Government of Newfoundland  
Ivy Stone, Government of Newfoundland and Labrador  
Ms Marion Organ, Nalcor Energy  
Jackie Wells, Nalcor Energy  
**From:** P Madden, Nalcor Energy  
**Sent:** 25/04/2014 7:52:36 PM BST (GMT +01:00)  
**Status:** N/A  
**Subject:** **LCP Documentation: Environmental Effects Monitoring Plans - Resubmission**

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Dear Mr. Schulze:

I trust all is well with you.

Attached are the Lower Churchill Project environmental effects monitoring plans previously provided to the Council of the Innu of Ekuanitshit in accordance with the Government of Newfoundland and Labrador Aboriginal Consultation Guidelines.

The Lower Churchill Project encourages and welcomes comments and concerns raised by stakeholders of the Project at any time during the implementation of the associated work. Thereby, please forward any comments the Innu of Ekuanitshit may have specific to the implementation of the Project environmental effects monitoring programs at any time and we will work to incorporate them into the programs, where appropriate.

Thank you for your comments and concerns. Please contact me with any questions.

Best Regards,

Peter



Peter Madden, MAsC., MBA

Regulatory Compliance Lead

Lower Churchill Project

709.737- [REDACTED]

[petermadden@\[REDACTED\]](mailto:petermadden@[REDACTED])

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**File Attachments** ([Zip download all files](#))

[ILK-PT-MD-0000-EV-PL-0009-01 Vegetation PEEMP B1.pdf](#)

[ILK-PT-MD-0000-EV-PL-0006-01 Freshwater Fish PEEMP B1.pdf](#)

[ILK-PT-MD-0000-EV-PL-0005-01140414 LITL Furbearers PEEMP B1 Final.pdf](#)

[ILK-PT-MD-0000-EV-PL-0003-01 .pdf](#)

[ILK-PT-MD-0000-EV-PL-0004-01 Caribou PEEMP B1.pdf](#)

[LCP-PT-MD-0000-EV-PL-0007-01.pdf](#)

[LCP-PT-MD-0000-EV-PL-0013-01.pdf](#)

[LCP-PT-MD-0000-EV-PL-0014-01.pdf](#)

[LCP-PT-MD-0000-EV-PL-0016-01.pdf](#)

[LCP-PT-MD-0000-EV-PL-0004-01.pdf](#)

[LCP-PT-MD-0000-EV-PL-0005-01.pdf](#)

[LCP-PT-MD-0000-EV-PL-0006-01.pdf](#)

[MFA-PT-MD-0000-EV-PL-0003-01.pdf](#)

[LCP-PT-MD-0000-EV-PL-0025-01.pdf](#)

[LCP-PT-MD-0000-EV-PL-0026-01..pdf](#)

[Table of LCP EEMPs - Provided to Ekuanitshit.pdf](#)

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# Lower Churchill Project Environmental Effects Monitoring Plans

## Council of the Innu of Ekuanitshit

Plan	Document no.	Status
<b>Muskkrat Falls and Labrador Transmission</b>		
Atmospheric Environmental Effects Monitoring Plan	LCP-PT-MD-0000-EV-PL-0014-01	Previously submitted and attached.
Avifauna Protection and Environmental Effects Monitoring Plan	LCP-PT-MD-0000-EV-PL-0004-01	Previously submitted and attached.
Black Bear Protection and Environmental Effects Monitoring Plan	LCP-PT-MD-0000-EV-PL-0006-01	Previously submitted and attached.
Caribou Protection and Environmental Effects Monitoring Plan	LCP-PT-MD-0000-EV-PL-0005-01	Previously submitted and attached.
Furbearers Protection and Environmental Effects Monitoring Plan	LCP-PT-MD-0000-EV-PL-0016-01	Previously submitted and attached.
Ice Formation Environmental Effects Monitoring Plan	MFA-PT-MD-0000-EV-PL-0003-01	Previously submitted and attached.
Methyl Mercury Environmental Effects Monitoring Plan	LCP-PT-MD-0000-EV-PL-0013-01	Previously submitted and attached.
Species at Risk Protection and Environmental Effects Monitoring Plan EEMP	LCP-PT-MD-0000-EV-PL-0007-01	Previously submitted and attached.
Aquatic Environmental Effects Monitoring Plan		April 2014
Navigation Mitigation and Monitoring Plan	LCP-PT-MD-0000-EV-PL-0025-01	Previously submitted and attached.
Human Health Risk Assessment Plan	LCP-PT-MD-0000-EV-PL-0026-01	Previously submitted and attached.
Clearing Execution, Protection and Environmental Effects Monitoring Plan		May 2014
Socioeconomic Environmental Effects Monitoring Plan		May 2014
<b>Labrador-Island Link</b>		
Caribou Protection and Environmental Effects Monitoring Plan	ILK-PT-MD-0000-EV-PL-0004-01	Previously submitted and attached.
Vegetation Protection and Environmental Effects Monitoring Plan	ILK-PT-MD-0000-EV-PL-0009-01	Previously submitted and attached.
Furbearers Protection and Environmental Effects Monitoring Plan	ILK-PT-MD-0000-EV-PL-0005-01	Previously submitted and attached.
Freshwater Fish Protection and Environmental Effects Monitoring Plan	ILK-PT-MD-0000-EV-PL-0006-01	Previously submitted and attached.
Avifauna Protection and Environmental Effects Monitoring Plan	ILK-PT-MD-0000-EV-PL-0003-01	Previously submitted and attached.