



**LABRADOR
LAND
PROTECTORS**

March 28, 2018

Commissioner Richard LeBlanc
5th Floor, Suite 502, Beothuk Building
20 Crosbie Place
St. John's, NL A1B3Y8

admin@muskratfallsinquiry.ca

RE: APPLICATION FOR STANDING AT THE COMMISSION OF INQUIRY RESPECTING THE MUSKRAT FALLS PROJECT

Grand Riverkeeper Labrador and Labrador Land Protectors have taken cognizance of the press release and Rules of Procedure issued by the Commission on March 15, 2018. We submit the present document as application for standing to be recognized jointly as a Party before the Commission of Inquiry Respecting the Muskrat Falls Project.

As our organizations do not have sufficient financial resources to participate in this process without financial assistance, we also hereby submit a request for funding. We understand that the Commission does not provide funding to Parties, but respectfully request that it make a recommendation to the Government of Newfoundland and Labrador in support of the funding request contained herein.

Grand Riverkeeper Labrador and Labrador Land Protectors are both organizations composed of Labrador citizens deeply concerned by the implications of the Muskrat Falls Project on our lands and communities.

Grand Riverkeeper Labrador was incorporated as a Canadian non-profit in October 2005. GRK's federal incorporation was dissolved by Corporations Canada in October 2017, due to our failure to fully understand the implications of the modifications made to Federal corporations legislation in recent years. GRK is currently taking steps to renew its incorporation, and expects to complete this in the very near future.

Grand Riverkeeper Labrador's mission statement, as stated on our web site, is as follows:

The purpose of the Corporation is to preserve and protect the water quality and the ecological integrity of the Grand (Churchill) River and its estuaries for present and future users and for posterity through actions of public awareness, monitoring, intervention and habitat restoration.

To fulfil this purpose, the Corporation will encourage the proper economic use and development and the improvement and protection of the Grand River system. The Corporation will inform and educate the public about the Grand River system, monitor and intervene to protect the river system with the goals of preserving and enhancing the river as a natural resource with great aesthetic, recreational, economic, social and spiritual values. Specifically, the objectives of the Corporation shall include:

- Protection and Preservation of Grand (Churchill) River, its watershed, and its valley.
- Protection of the natural order of the river, its watershed, and its valley.
- To identify and to address point source pollution problems in the Grand River system; and
- To actively promote economic and environmentally sustainable ecosystem management approaches which will maintain the heritage and intrinsic value of this river and its valleys for present and future generations.

All individuals, groups and corporations who support the purpose of the Corporation are welcome to become members of the Grand Riverkeeper Labrador Inc.

Labrador Land Protectors was formed as a voluntary association in 2016. It is a group of concerned Labrador citizens, consisting of both indigenous and settler people, from all walks of life.

LLP has played an important role in bringing public attention to the risks to human life being created by the Muskrat Falls Project. It has called upon the Canadian federal Government and the NL Government to:

1. Guarantee progress and accountability on the methyl mercury agreement signed in October 2016 by Labrador Indigenous leaders and the NL Government.
2. Initiate an independent review of the North Spur, a sensitive area of land that could lead to catastrophic failure and loss of life downstream, as presented to NL Government in May 2017 by Labrador Land Protectors/Grand Riverkeeper Labrador that was supported with over 1000 signatures, including the Council of Canadians, Sierra Club of Canada, and downstream municipalities.

3. Ensure that the Commission of Inquiry includes a forensic audit of Nalcor and more attention to environmental, social, and Indigenous factors. The Terms of Reference are narrow and do not include an UNDRIP lens into projects on Indigenous land/water. This work needs to happen now before the project is completed and too much damage is already done.

LLP is in the process of incorporation, and expects to complete that process in the coming weeks.

INTEREST

Members of GRKL and LLP live in the watershed of the Grand (a.k.a. Churchill) River and most of the environmental, cultural or social effects of the construction of the project rest squarely on our shoulders. As residents of the Province, we are also cognizant of the detrimental effects the costs of this project will have on every citizen, including Labrador's residents. Most of our members live within a 100km radius of the Muskrat Falls dam and many within 35km and directly in the path of any potential flood from either a dam break or breach or the failure of the North Spur natural dam. Some of our members live in other countries, but are supportive of our work to protect the rivers and the land.

Most of our members are scattered throughout the flood zones identified by Nalcor in the Environmental Impact Statement Flood maps produced by Hatch. We have already had one major flood in Mud Lake and no one here believes that it was as simple as ONLY natural causes. We are convinced that, given last year was the first year that Nalcor manipulated the flow in the Grand River, it was Nalcor's duty to recognize that the situation was critical and to act to protect the citizens of Mud Lake. That did not happen and people had to be helicopter lifted to safety. They lost vehicles, snow machines household goods etc. etc. and they lost trust, both in Nalcor and in their Government to protect them and keep them safe. They fear that every spring this scenario will repeat and many are thinking of moving out of their homes.

The town of Mud Lake has a history of well over 200 years. The community was at the centre of the debate that ended in the Privy Council decision of 1927 to give the coast of Labrador and the territory from the height of land to the coast to Newfoundland rather than Quebec. This began when Quebec companies tried to put their stamp on wood from the Dicky Lumber Company's saw mill in Mud Lake. Thus, the history of Mud Lake is intertwined with the history of Newfoundland and of Labrador. It is our view that Mud Lake is of historic importance to Labrador and to the Province as a whole, and that forcing this community out of existence would be a travesty that none of us should tolerate.

That said, we are confident that this inquiry will go a long way toward revealing the information that people in the Lower Valley and Mud Lake need in order to feel safe in their homes. Did Nalcor and the governments of the day make unsupported statements in order to manipulate

or convince us that this project should be sanctioned? Did they make inexcusable errors in their assessment of risks, physical and financial? Were the right studies done with regard to the North Spur, and is Nalcor's confidence well-founded that the Muskrat Falls dam will not collapse in a mud slide, taking many of our members with it? Will Mud Lake citizens have to abandon their homes, their ancestors' graves and their culture and move to higher ground? And who will cover the costs of all these errors? These are just some of the questions that GRK and LLP are convinced that the Commission of Inquiry can and will answer. Furthermore, GRK and LLP are convinced that, as full participants in the Inquiry, they will be able to assist the Commission in its efforts to get to the bottom of these and other questions.

PAST ACTIVITIES OF GRKL AND LLP

GRKL and LLP are motivated by a sincere concern for the health and safety of the people downstream from the Muskrat Falls project, including the community of Mud Lake and the lower portion of Happy Valley-Goose Bay and Rigolet. All of these communities will have to deal with the effects of methyl mercury and Happy Valley-Goose Bay and Mud Lake especially will have to deal with any possible dam break or breach. For the community of Rigolet, their very existence depends on fish, birds, and seals. These sources of food will be directly impacted by the flooding of the reservoir and the methyl-mercury poisoning. Both of our organizations have members from these three communities as well from across Canada, the United States and beyond.

Since its inception, GRKL's main focus has been the Lower Churchill Hydroelectric Project and the environmental and social concerns related to this massive undertaking which, in our view, was unnecessary, environmentally devastating, over-priced (even at the beginning) over-sold by the proponents and successive governments and would have immense negative social effects for our communities; dividing our communities between Aboriginal groups who were to benefit directly and monetarily from the project and those who would not; dividing members of our community between those who saw the folly of the destruction of Canada's 7th largest river for short term gain and those seeking high-paying jobs; marginalizing the poorest members of our communities through increases in the price of everything from rent to food to shoes to air travel. Long before the project actually started, our group researched other situations where huge, short term projects came into small communities and what the effects of those projects were on those communities. We made a presentation to our town council of Happy Valley-Goose Bay in order to alert council to what they should be prepared for.

Throughout the years (since 2005 and even before under the name of Friends of Grand River), we have continued to research and reach out to like-minded citizens. To that end, GRK sought and received federal funding and has been actively involved in every phase of the environmental assessment of the project, from reviewing the guidelines, to reviewing

thousands of pages of studies presented by Nalcor Energy along with their Environmental Impact Statement, hiring experts to help us make submissions and present to the Joint Panel. In all, GRK presented on 18 different issues during the 30-day hearings.

GRKL hosted, for the first time ever in Labrador, a funded review of the environmental assessment process. The Canadian Environmental Assessment Agency and the Environmental Assessment and Planning Caucus provided funds to bring presenters to Happy Valley-Goose Bay, including a representative from Environment Canada's office in Halifax, for a 3-day workshop discussing what worked (and what didn't work) in previous assessments. We produced a report which was shared with the participants, the Agency Environment Canada, the Caucus and on-line.

In the environmental assessment process for the Lower Churchill Project, GRKL received and accounted for a total of \$124,000 in participant funding (\$13,000.00 for the review of the guidelines, \$64,600 for the LCP EA process, and \$47,000 for the EA of the Labrador-Island Link). In the LCP EA process alone, we produced 8 expert reports, several witnesses, and participated actively in the entire hearing process.

GRKL was an active participant in the Public Utilities Board review requested by the Premier Dunderdale in 2012. GRKL provided expert testimony in that process, found here: <http://www.pub.nl.ca/applications/MuskratFalls2011/files/exhibits/GRK/GRK-1.pdf>

GRKL received federal funding and participated as well in the environmental assessment of the Labrador Island Transmission Link: Our expert submission can be found here: http://www.centrehelios.org/downloads/testimony_Transport/2012_EN_comments_on_Justification_of_LITL_Helios_Raphals.pdf

GRKL is also a recognized intervenor in the PUB Investigation and Hearing into Supply Issues and Power Outages on the Island Interconnected System. This inquiry was created to look at the reliability of power on the Island, including Phase II addressing reliability after the Muskrat Falls project is commissioned. GRKL submitted two expert reports to this Inquiry, one by Dr. Stig

Bernander¹ and one by Philip Raphals². Both were struck from the proceeding's record by the PUB on a motion of NLH, and so neither of these two important reports have yet been received by any public body.

GRKL and LLP respectfully submit that these two issues are of central importance to the Commission's mandate, and would be pleased to present these reports to the Commission.

GRKL has not restricted itself to issues concerning dam development projects but have also researched other issues affecting our community and in fact, policies affecting the entire country. For example, during the review of the federal environmental assessment process instigated by the current Federal Government, GRKL made a presentation to the Expert Panel on what we believed should be recommended changes to the EA process as it now exists. We based our recommendations on issues we experienced with our own involvement in the EA for the Lower Churchill Project.

GRKL released a statement on February 27, 2015 regarding Premier Paul Davis' Pre-Budget consultations outlining our disappointment that the Premier's statement that "all options are on the table" apparently did not apply to the Muskrat Falls project. We had asked that the project receive an independent review because of the many unanswered questions. We attended the local MHA's open house here in HVGB to voice our concerns. At that time, the project cost was quoted as \$8.3 billion and as we now know, it has increased to \$12.7 billion and we expect it will rise even higher once this Public Inquiry and Forensic audit is complete.

On May 9th, 2017, a letter signed by GRKL and LLP was presented to Premier Dwight Ball in the House along with a petition signed by 1000 community members from North West River and Happy Valley-Goose Bay asking for an independent inquiry into the Muskrat Falls Project and the North Spur Stabilization issue. On the same day, a press release was issued with signatures from municipalities and other groups regarding these issues. To date we have never received a

1

<http://www.pub.nl.ca/applications/IslandInterconnectedSystem/phasetwo/files/correspondance/From%20GRK%20-%20Comments%20on%20request%20for%20extension%20and%20concerns%20re%20outstanding%20RFIs%20-%202014-11-25.pdf> and

<http://www.pub.nl.ca/applications/IslandInterconnectedSystem/phasetwo/files/correspondance/From%20GRK%20-%20Comments%20on%20request%20for%20extension%20and%20concerns%20re%20outstanding%20RFIs%20-%202014-11-25.pdf>

2

<http://www.pub.nl.ca/applications/IslandInterconnectedSystem/phasetwo/files/correspondance/From%20GRK%20-%20Expert%20Evidence%20-%20Philip%20Raph%20on%20tribution%20to%20the%20Reliability%20of%20the%20Island%20Interconnected%20System%20-%202016-10-17.PDF>

reply to our letter. However, we feel that our persistence along with others like David Vardy, Des Sullivan, Ron Penny, Maurice Adams and many other concerned citizens over the past few years was very significant in finally convincing Government that this Commission should be established and we are extremely happy with your announcement that the forensic audit will go ahead.

On July 12th, 2017, GRKL and LLP jointly sent a letter to Premier Dwight Ball highlighting some issues that were discussed with the Premier and our 4 MHAs at a face to face meeting in Happy Valley-Goose Bay around the issue of Muskrat Falls and the North Spur and Methyl Mercury issues. The meeting is available on You Tube at [http://www.youtube.com/watch?V=3q-
qfNIEP4A](http://www.youtube.com/watch?V=3q-
qfNIEP4A)

On August 24, 2017 GRKL and LLP wrote to our MP Yvonne Jones to express our concern with the second loan guarantee provided by the Canadian government, effectively allowing the Muskrat Falls project to proceed. The loan guarantee meant that ratepayers in Newfoundland and Labrador would again be on the hook for the final cost of the project, based on a Power Purchase Agreement that effectively guaranteed that the PUB had no choice but to include whatever Nalcor set as the price of the power from Muskrat Falls. We strongly disagreed with the original loan guarantee from the Federal Government, without which this project would never have gotten off the ground, and without which we likely would not be having these conversations today.

On February 22nd 2018, members of GRKL and LLP participated in a symposium on Muskrat Falls Project hosted by the Royal Society of Canada, in collaboration with the Labrador Institute, Memorial University's Department of Philosophy, and Newfoundland and Labrador NPO For a New Earth (FANE). Several of our members were asked to present at the symposium which ran for two consecutive days.³

GRKL and LLP have also made representations as concerned citizens to the HVGB Town Council. Recently, we spoke to an application by NL Hydro to build a \$20 million power line proposed in large part to provide power for bitcoin companies who come to Labrador for cheap power, but bring no jobs or other economic development. The application was recently rejected by the NLPUB.⁴

³ A link to the symposium can be found here: <https://rsc-src.ca/en/events/muskrat-falls-public-symposium>.
A news article from APTN can be found here: <http://aptnnews.ca/2018/02/23/labrador-symposium-reveals-deep-diverse-opposition-muskrat-falls/>

⁴ CBC coverage of this meeting is found at <http://www.cbc.ca/listen/shows/labrador-morning/episode/15530023>.

ROLE IN INQUIRY

GRKL's and LLP's participation will focus primarily on elements 4a, 4c, and 4d of the Commission's Terms of Reference.

GRKL and LLP believe that we have an interest in the subject of this Inquiry, and that our participation will not only further the conduct of the inquiry but will also contribute to the openness and fairness of the inquiry. GRLK and LLP will bring forward local voices who can speak to the issues as they happened here near the site as well as experts who can speak to their meaning. Due to our long involvement in the issue, we believe we will contribute to the Commission's understanding of events and issues, both through our members' testimony and through the questions that we will put to other witnesses about various issues as they relate to:

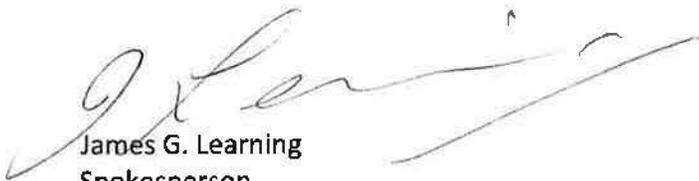
- 1) the business case put forward by Nalcor in the EIS and the changes as the project proceeded;
- 2) the waste associated with the project, which we were able to see first-hand here on the ground, which contributed to the extremely high costs;
- 3) the integrity of the process leading to sanction by submitting documents that were submitted to Nalcor, and the various NL Governments of the day.
- 4) whether government was fully informed and made aware of any risks or problems anticipated with the project, including those raised by the Joint Review Panel;
- 5) our submissions and letters requiring information on the Public Utilities review processes; and
- 6) the exemption of the Muskrat Falls Project from PUB scrutiny.

For all these reasons, we ask the Commission to recognize Grand Riverkeeper Labrador and Labrador Land Protectors as a Party to the Commission of Inquiry Respecting the Muskrat Falls Project.

Respectfully submitted,



Roberta Benefiel Frampton
Vice President
Grand Riverkeeper Labrador

A handwritten signature in black ink, appearing to read 'J. Learning', written in a cursive style.

James G. Learning
Spokesperson
Labrador Land Protectors



**LABRADOR
LAND
PROTECTORS**

March 28, 2018

Commissioner Richard LeBlanc
5th Floor, Suite 502, Beothuk Building
20 Crosbie Place
St. John's, NL A1B3Y8

admin@musktratfallsinquiry.ca

RE: APPLICATION FOR FUNDING FOR THE COMMISSION OF INQUIRY RESPECTING THE MUSKRAT FALLS PROJECT

Grand Riverkeeper Labrador and Labrador Land Protectors have taken cognizance of the press release and Rules of Procedure issued by the Commission on March 15, 2018. We have chosen to work together in order to reduce our costs and to promote efficiency. We submit the present document as application for funding to participate before the Commission of Inquiry Respecting the Muskrat Falls Project. An affidavit in support of this application is attached.

Neither GRKL nor LLP have the financial resources to permit ongoing and effective participation in the Commission's work. We understand that the Commission does not provide funding to Parties, but respectfully request that it make a recommendation to the Government of Newfoundland and Labrador in support of the funding request contained herein.

Recent bank statements of both GRKL and LLP are attached.

BUDGET

In order to develop a draft budget, GRKL and LLP have had to make a number of assumptions concerning the upcoming hearings of the Commission of Inquiry. In the absence of authoritative information, we have assumed that there will be some 20 weeks of hearings, of which 6 weeks will be devoted to issues that fall outside of the direct concerns of GRKL and LLP. Thus, we assume that we will need to participate in approximately fourteen (14) weeks of hearings, of which we assume ten (10) weeks will be on the Island, and four (4) weeks in

Labrador. We have further assumed that the Commission will assume all costs with regard to expert witnesses, including those proposed by GRKL and LLP. In the event that GRKL and LLP will have to present their own expert witnesses, a considerably greater budget will be required.

We have assumed that GRKL and LLP will be represented by counsel located on the Island, meaning that travel costs for counsel will be required for the Labrador hearing days only. We have assumed that counsel will require on average 0.5 days of preparation for each hearing day.

Members of GRKL and LLP will follow and contribute to the proceedings on a *pro bono* basis, but are unable to do so on a full-time basis as will be required to keep up with the Commission's work. They will require a travel budget for the hearings days they will need to attend on the Island.

GRKL and LLP also intend to engage an expert to assist them with regard to these proceedings. It is assumed that this expert will need to be present for certain hearing days, to advise counsel.

GRKL and LLP intend to engage an analyst to follow the hearings on a day-to-day basis and to provide support to the two groups, their lawyer and their expert.

Based on these assumptions, GRKL and LLP estimate the need for a budget of approximately \$242,000, as detailed below.

Fees	hours	rate	total
Counsel - hearings	420	250	105,000
Counsel - preparation	210	250	52,500
Analyst	420	45	18,900
Expert	125	250	31,250
Subtotal - fees			207,650
Travel			
Counsel			8,100
GRKL and LLP members			15,000
Expert			11,840
Subtotal - Travel			34,940
TOTAL			242,590

Travel	Expert	Counsel (15 days in Labrador)	GRKL and LLP members
trips	4	3	4
airfare	800 3,200	600 1,800	600 2,400
lodging	16 120 7,680	15 120 5,400	30 90 10,800
per diem	16 60 960	15 60 900	30 60 1,800
TOTAL	11,840	8,100	15,000

GRKL and LLP respectfully request that the Commission recommend that the Government of Newfoundland and Labrador make a grant in this amount to the two organizations.

Roberta Benefiel, Vice-President of Grand Riverkeeper, will be responsible for administering the funds. (She has played this role for GRKL with regard to its participant funding awards from CEAA with respect to the Lower Churchill Project and the Labrador-Island Link, mentioned above.) Her address is:

Roberta Benefiel Frampton
Grand Riverkeeper Labrador



Ms. Benefiel will prepare regular financial reports, with the assistance of Peyton Barrett Consulting. All disbursements will require review by GRKL and LLP Boards.

As noted above, neither GRKL nor LLP have significant resources that they can contribute to this project. (While LLP does have over [REDACTED] in its bank account, these sums were raised from

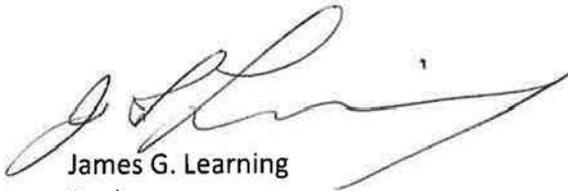
the community to provide legal support in relation to demonstrations at Muskrat Falls, and they are earmarked for that purpose.) However, personnel from both organizations will participate on a *pro bono* basis in managing and overseeing their participation in the Commission's work, to the best of their abilities.

Finally, GRKL and LLP intend to work closely with Muskrat Falls Concerned Citizens (MFCC). While Labrador and Island interests are not necessarily identical, we have great respect for the work done by the MFCC's leaders in elucidating the complex financial relationships underlying the Muskrat Falls Project and in bringing them to the attention of the public and of decision-makers. We therefore intend to share resources with MFCC whenever possible.

Respectfully submitted,



Roberta Benefiel Frampton
Vice President
Grand Riverkeeper Labrador

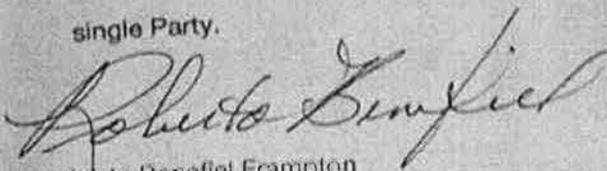


James G. Learning
Spokesperson
Labrador Land Protectors

AFFIDAVIT IN SUPPORT OF THE APPLICATION OF GRAND RIVERKEEPER LABRADOR'S
FOR FUNDING IN SUPPORT OF ITS PARTICIPATION BEFORE THE COMMISSION OF
INQUIRY RESPECTING THE MUSKRAT FALLS PROJECT

I, **Roberta Benefiel Frampton**, on behalf of the applicants, make oath and state the following:

1. Grand Riverkeeper Labrador (GRKL) and Labrador Land Protectors (LLP) would be unable to participate in the Inquiry without funding. GRKL and LLP together have about 150 members.
2. We have included a draft budget in the attached application for standing and for funding. This draft budget is based on an estimate of the length of the public hearings which is not informed by any information in this regard from the Commission. As further information becomes available, this budget will probably need to be amended.
3. We have had discussions with the organizers of the Muskrat Falls Concerned Citizens' Coalition, and have agreed to cooperate whenever possible to increase efficiency and reduce costs. However, we concluded that it would not be desirable to participate as a single Party.



Roberta Benefiel Frampton
Vice President and Riverkeeper
Grand Riverkeeper Labrador



Derrick White
Barrister, Solicitor & Notary Public



