

Date : 11/30/2012 1:36:17 PM
From : "Carter, Paul A."
To : "Appleby, Christopher"
Subject : FW: Nunatsiavut Government response to panel report
Attachment : Nunatsiavut Gov_Panel Report response.pdf;
Hi Chris,

As per request, see original email only below.

Paul Carter
Tel. 729-0188

From: Martineau, Daniel [CEAA] [mailto:Daniel.Martineau@ceaa-acee.gc.ca]
Sent: Sunday, November 13, 2011 11:16 PM
To: Carter, Paul A.
Cc: Pierce, Jon [CEAA]
Subject: TR: Nunatsiavut Government response to panel report
Importance: High

Paul,

Comments from Nunatsiavut. I would like to put them in the best delay on the collaboration site.

Still missing:

Natashquan
Pakua Shipi
Matimekosh
Ekuanitshit

I know that we will get some comments from Ekuanitshit and should get something from some of the others.

Have a nice day,

Daniel Martineau

De : Tom Sheldon [mailto:tom_sheldon@nunatsiavut.com]
Envoyé : 11 novembre 2011 17:20
À : Lower Churchill Review [CEAA]
Cc : Pierce, Jon [CEAA]; Martineau, Daniel [CEAA]
Objet : Nunatsiavut Government response to panel report
Importance : Haute

Please see attached for the Nunatsiavut Government response to the Lower Churchill Hydroelectric Generation Project Panel Report. Please confirm receipt of email and that you are able to successfully open the attached pdf. If you have any other questions or concerns, please do not hesitate to contact me.

Thank you,
Tom

Tom Sheldon
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Nunatsiavut Government
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NUNATSIAVUT GOVERNMENT RESPONSE TO PANEL REPORT

PANEL REPORT – MAJOR OUTCOME

The recently released, independent Panel Report on the proposed Lower Churchill Hydroelectric Generation project contained 83 recommendations to be implemented, should the Project be approved.

The Nunatsiavut Government spent considerable time participating in the environmental assessment process for the Lower Churchill Generation project in order to assert its views that the project would have potential negative impacts on Labrador Inuit, their Rights and Title, as well as their environment, culture and way of life. This is especially true for Inuit living in the Upper Lake Melville area and Rigolet. The proponent, Nalcor Energy, did not consider that Inuit would be affected by its project and essentially excluded Labrador Inuit from their analysis of project impacts.

The Nunatsiavut Government made approximately 30 separate submissions to the Panel. These submissions involved collaboration with scientific experts and Inuit experts. Although the submissions and presentations ranged from environmental to socioeconomic to health impacts, all of the Nunatsiavut Government's concerns are related to Inuit Rights and Title, as established under the Labrador Inuit Land Claims Agreement. The Nunatsiavut Government is pleased to see that the Panel found many of our concerns to be valid and agreed with many of our recommendations.

The Panel was required to consider Project effects on current use of lands and resources for traditional purposes by Aboriginal persons. During this consideration, the Panel made an important distinction with respect to Inuit, relative to all other Aboriginal groups involved. Specifically, the Panel Report stated that due to the *Tshash Petapen* Agreement and accommodation through it, adverse Project effects on Labrador Innu would likely not be significant. With respect to Inuit-Metis, the Panel concluded that Project effects would be adverse but not significant. With respect to Quebec Aboriginal groups, the Panel also stated the Project effects would be adverse but not significant. When discussing Project effects on Labrador Inuit, however, the Panel was of a different opinion. The Panel stated that there could be significant adverse effects on the pursuit of traditional harvesting activities by Labrador Inuit, including the harvesting of country food, should the proposed project proceed. **The Panel was extremely clear in elevating their level of concern for Inuit by making a significant adverse effect pronouncement for Inuit, without making the same determination for any other Aboriginal group involved in the environmental assessment process. This must be accommodated for, and mitigated by, Nalcor, the Provincial Government and the Federal Government. Further consultation does not constitute, nor is equal to, mitigation. Inuit suggestions for mitigation are outlined below.**

Downstream Effects – Significant adverse impact on Inuit and Inuit Rights

When building a dam, inorganic forms of mercury are transformed into the very toxic organic methylmercury, which then accumulates in aquatic and marine food webs. Methylmercury concentrations increase into the top of the food web, for example in marine mammals, such as ringed seal. Inuit will be disproportionately affected because fish and these marine mammals are an important part of their traditional diet, which provide essential nutrients and strength. Mercury in traditional diets will affect Inuit food security and health.

The Panel concluded that Nalcor did not carry out a full assessment of the fate of mercury in the downstream environment, including potential pathways that could lead to mercury bioaccumulation in seal and fish and the potential for cumulative effects of the Project together with effects of other sources of mercury. This statement from the Panel differs significantly from Nalcor's assertions throughout the environmental assessment process that they were certain that there would be no measurable downstream effects from the project. Nunatsiavut Government expertise (both Inuit Knowledge and scientific) suggests that there will be effects on the downstream environment as a result of dam construction.

The Panel also recognized the dietary and cultural importance of fishing and seal hunting in the downstream areas of Goose Bay and Lake Melville, including the Labrador Inuit Settlement Area, concluding that there would be significant adverse effects on the pursuit of traditional harvesting activities by Labrador Inuit, including the harvesting of country foods, should consumption advisories be required. We are therefore pleased that the panel recommended a new, comprehensive assessment of downstream effects with independent third-party oversight and review. The Panel also recommended that Nalcor be required to enter into negotiations with parties representing resource users in Goose Bay and Lake Melville (i.e. Inuit) regarding further mitigation, where possible, or compensation measures, including financial redress if necessary, should the study indicate that consumption advisories be required in this area. The Nunatsiavut Government believes that any increase in mercury downstream of the proposed dam into Lake Melville or the Labrador Inuit Settlement Area, whether in the physical or biological environment, would be a significant adverse impact on Inuit and Inuit Rights, given the importance of country foods for Inuit.

During the Aquatic Environment session of the Panel Hearings, it was clear that Inuit were the Aboriginal group that had the most concerns and the most to lose with respect to the downstream effects of the proposed Project. In fact, Inuit were the only Aboriginal group that presented during the Aquatic environment hearings, and Inuit actually gave two separate presentations – one from a western science perspective and another from an Inuit Knowledge perspective. It is clear that the work and positions put forward during the Panel Hearings were of high quality, as the independent Panel report concurred with many of the Nunatsiavut Government's positions and recommendations. In particular, the Panel concluded that...

...Nalcor's assertion that there would be no measurable effects on levels of mercury in Goose Bay and Lake Melville has not been substantiated.

...the lack of information drawn from previous projects was likely compounded by Nalcor's decision to place the study boundary at the mouth of the river and therefore not carry out baseline sampling in Lake Melville.

...evidence of a long-distance effect from the Churchill Falls project in estuarine species clearly indicate that mercury effects can cross from freshwater to saline environments, in spite of Nalcor's assertions to the contrary.

...Nalcor did not carry out a full assessment of the fate of mercury in the downstream environment, including potential pathways that could lead to mercury bioaccumulation in seals and the potential for cumulative effects of the Project together with other sources of mercury to the environment.

The Panel also recognized the Aboriginal Rights and Title of Inuit downstream of the proposed Lower Churchill development, by identifying...

... the importance to Upper Lake Melville and Rigolet residents of fishing and seal hunting in Goose Bay and Lake Melville for food, cultural and recreational purposes...(and the) potential for changes in country food consumption and for human health effects due to long-term low-level mercury exposure and consumption advisories.

The Panel also concluded that....

... should consumption advisories be required in Goose Bay and Lake Melville, the Project would have significant adverse effects on the pursuit of traditional activities by Labrador Inuit, including the harvesting of country food.

The Panel recommended that as soon as the Project is approved and before impoundment begins a comprehensive assessment of downstream effects needs to take place, including:

...identifying all possible pathways for mercury throughout the food web, and incorporating lessons learned from the Churchill Falls project;

...baseline mercury data collection in water, sediments, and biota (revised modeling taking into account additional pathways, and particularly mercury accumulation in the benthos) to predict the fate of mercury in the downstream environment;

...quantification of the likely changes to the estuarine environment associated with reduction of sediment and nutrient inputs and temperature changes;

...identification of any additional mitigation or adaptive management measures.

Most relevant recent study released subsequent to Panel Hearings

We would like to remind the Provincial and Federal Government that our concerns are not only with respect to Aboriginal Rights, they are concerns that are a fundamental Human Right to a safe and healthy environment upon which Inuit and Inuit culture depend. To emphasize one aspect (methylmercury) of the urgency and absolute importance of Inuit concerns, we are directing you to a recent study on the human health effects of prenatal and childhood exposure to environmental contaminants, such as methylmercury, on the health and development of Inuit children in Nunavik (northern Quebec) that was released subsequent to Panel Hearings. The mercury source in Nunavik is only due to long-range transport sources. With respect to the proposed Lower Churchill Hydroelectric Development, Inuit in Nunatsiavut and Upper Lake Melville are concerned about a short-range 30 year pulse of methylmercury into the downstream environment due to the dam cumulatively compounding the already significant long-range sources of mercury. Please note that we are only submitting this information, as it is directly related to Inuit Rights as they relate to the future elevated levels of mercury downstream of the proposed Lower Churchill Hydroelectric Project.

“The Nunavik child development study was first launched in the mid-1990s by researchers from Laval University and Wayne State University who worked alongside the Nunavik Regional Board of Health and Social Services and its public health department. The first phase of the study looked at 300 infants, examined at six and 11 months, along with their mothers. The second phase, launched in September 2005, included 294 children and their mothers. The young participants were 11 year-olds who had initially participated in the cord blood monitoring program at birth, which was designed to document environmental contaminants in newborns. The study also incorporated the children’s teachers, who were asked to report on the students’ behavior and ability.” (courtesy of Nunatsiaq Online, October 7, 2011). Please note that, although, it has been peer reviewed and reported, the study has not yet been published in primary literature due to the obligation and commitment to release the results to the families, communities and region first. This was done at the beginning of October, 2011.

We encourage the Federal and Provincial Government and Nalcor to view the results of the Nunavik Child Development Study at the following URL:

http://www.rrsss17.gouv.qc.ca/index.php?option=com_content&view=article&id=191&Itemid=139&lang=en

For ease, however, we have directly copied the text related to methylmercury from the Nunavik Regional Board of Health and Social Services webpage below:

- A key finding of the infancy study was that prenatal exposure to mercury was associated with a decrease in the infant’s ability to maintain attention.
- Prenatal exposure to mercury was associated at 11 years of age with poorer intellectual function, and poorer attention in classroom according to the child’s teacher. By contrast, negative effects were not seen from postnatal exposure to mercury. Prenatal exposure to mercury has been associated in previous studies with impaired performance on intellectual tasks requiring the child to be attentive, but the extent to which these

cognitive deficits translate into attention deficit observable in the classroom remains unknown. Our results suggest for the first time that prenatal mercury exposure is a risk factor for attention deficit in childhood.

Treaty with Innu Nation – overlap agreement

In its final submission to the Panel, the Innu Nation noted that the overlap agreement represents a treaty between the Innu and Inuit people of Labrador, within which respective rights and interests are to be reconciled. We agree with this assertion and would like to uphold it and our relationship with Innu Nation and its people. In particular, relevant principles of the overlap agreement for this proposed development are outlined below:

- 3.7 Neither LIA (Labrador Inuit Association, now the Nunatsiavut Government) nor Innu Nation will without the consent of the other agree to any proposed Development Activity by a third party in or affecting the Traditional Territory of the other, or a Shared Area... LIA and Innu Nation will agree on a procedure to determine if their Traditional Territories are affected and will agree on the terms and conditions under which Development could proceed or be renewed.
- 3.8 A Development proposal by a third party in or affecting a Shared Area will require the consent of LIA and Innu Nation. LIA and Innu Nation will agree on the terms and conditions under which the Development could proceed.
- 3.9 The Innu and the Inuit are equal in rights and responsibilities with respect to Shared Areas and on a case by case basis will agree to an equitable sharing of the burdens and benefits of any Development in a Shared Area.
- 3.10 LIA and Innu Nation as stewards of their respective Traditional Territories will ensure that any Development that occurs is consistent with the principles that a healthy Environment is a first priority, that habitat must be maintained, and Development must be ecologically sustainable.
- 3.11 LIA and Innu Nation wish to protect and promote their traditional ways of life and will ensure that any Development is compatible with those ways of life in their respective Traditional Territories.
- 3.13 Despite subsections 3.7, 3.8 and 3.9, Innu have the sole right to benefit from Developments occurring in the Lands, waters and ocean within the area shown on Schedule 12-E of the Inuit Treaty, and LIA shall not unreasonably withhold consent for a Development in that area, provided the other principles in this section are respected.

Although the Project Area, as was narrowly defined by Nalcor, falls within Schedule 12-E of the Labrador Inuit Land Claims Agreement, it is clear from the Panel Report that the Project Area was much too narrowly defined, especially in the context of impacts on Inuit. In fact, the Panel Report clearly states that...

...evidence of a long-distance effect from the Churchill Falls project in estuarine species clearly indicate that mercury effects can cross from freshwater to saline environments, in spite of Nalcor's assertions to the contrary.

In addition, Fisheries and Oceans Canada released a research paper prior to the Panel Hearings showing that mercury effects from the Churchill Falls project could be seen in several estuarine species (rainbow smelt, tomcod, sea trout) in the waters of Lake Melville over 300 kilometres away from the Smallwood Reservoir. This included fish to the east side of Goose Bay Narrows, which was described by Nalcor as a barrier to mercury passage. Clearly, this report proves Nalcor wrong in their inadequate modeling and predictions of no effect beyond the mouth of the Lower Churchill.

As a result of our concerns, views and Rights, Inuit have sent a letter to the Innu Nation regarding the overlap agreement between the Innu Nation and the Nunatsiavut Government (a treaty between the Innu and Inuit people of Labrador) to discuss the proposed Lower Churchill Development and the following.

With respect to the proposed Lower Churchill Development, Inuit believe that:

- The Project Area and impact extends beyond Schedule 12-E into Lake Melville and the Labrador Inuit Settlement Area (the Panel Report suggests this is highly likely);
- Inuit Rights and Title, and Traditional Territory as established under the Labrador Inuit Lands Claims Agreement and agreed upon in the overlap agreement will be significantly adversely affected if the proposed development proceeds;
- The significant adverse effects on Inuit must be mitigated and accommodated for. Further consultation does not constitute, nor is equal to, mitigation;
- The Innu Nation and Nunatsiavut Government must agree on the terms and conditions under which the proposed Development could proceed.

As neighbours, Inuit and Innu have always maintained a relationship rooted in mutual respect, dignity and accommodation for each other's interests and Rights. Going forward, we will discuss how our respective rights and interests can be reconciled in the context of the proposed Lower Churchill Development, given the Panel's recent determinations and the Inuit view that our Rights and Title and Traditional Territory will be significantly adversely affected.

INUIT INVOLVEMENT IN THE WAY FORWARD

It is clear that the Panel has given their report thoughtful consideration and there is still a lot of work to be done for potential significant adverse effects on Inuit to be mitigated, especially in light of recent studies related to environmental methylmercury exposure in Inuit from Nunavik. Most importantly, the Panel report provides a solid, independent, unbiased starting point that recognizes potential significant adverse effects on Inuit and the importance of including Inuit within this process. As a result of this report, we are looking forward to no longer being excluded from the table and having our views and concerns on the Project meaningfully considered by Nalcor, the Province, and the Federal Government, similar to how the independent Panel considered them. Most importantly, we are looking forward to being an integral part of, and an active participant in, Lower Churchill discussions with Nalcor, the Province, and the Federal Government from this point forward.

It is also clear that the Nunatsiavut Government is not just another stakeholder. Inuit are much more than this – we are a Government representing a constitutionally protected Land Claims Agreement. The proposed Project will impact Inuit and Inuit Rights as established in this Agreement and, as a result, Nalcor, the Province of Newfoundland and Labrador and the Government of Canada have a moral and legal obligation to ensure Inuit are included in the process to protect their Rights

At a high level, Inuit have three major recommendations that will help to mitigate impacts on Inuit and Inuit Rights and allow Inuit to constructively contribute to the Lower Churchill process going forward. These are, by far, the most important recommendations related to Inuit Rights and they flow directly from the determinations of the Panel Report.

1) **Inuit representation on management structure**

As more than just a stakeholder, and given the high likelihood of significant adverse impacts on Inuit and Inuit Rights, **Inuit have a fundamental right to participate as part of a high level management mechanism for the proposed Lower Churchill Hydroelectric Development. This management mechanism should consist of the Nunatsiavut Government, the Innu Nation, the Province of Newfoundland and Labrador and the Government of Canada.** All other groups who participated in the environmental assessment are groups (not Governments), and should have a role to play, but not at the highest level. Once established, the four participants in this management mechanism should collaboratively determine the role of the management mechanism and responsibilities within it. It is extremely important that the management mechanism has direct representation from all of the Governments and that all representatives are willing and constructive.

The management mechanism would be set up to function for construction of the project and its role would evolve and adapt over the lifetime of project implementation. The organization of the management mechanism would change with its annual assessments and chief goals. It is important that the management mechanism does not focus entirely on permitting. This is short-sighted and would not allow for a complete understanding of the Project and its impacts. There would be long-term, medium-term and short-term questions that would need to be answered and

these would guide the directions of the management mechanism. Although some of these will undoubtedly focus on permitting (especially in the short-term), the most important questions would probably not focus on permitting. Rather, they would focus at a broad and holistic level on trying to determine the overall impact of hydroelectric activities on the environment, Aboriginal groups, surrounding people and communities. One of the most important early tasks of the management mechanism would be to establish various thresholds for the determination of significant impacts related to a suite of indicators (biophysical, cultural, socioeconomic, health, etc.).

It is vitally important that socioeconomic research plays a large role in this management mechanism. High level, broad questions (and socioeconomic questions) are not currently playing a role in the Voisey's Bay Environmental Management Co-operative Management Board, which is in turn causing severe issues with the functionality of that Board. It is critical that, at the end of each year, the management mechanism for the Lower Churchill Project has an improved understanding of the overall impacts of the hydroelectric development to inform future research, monitoring and decision-making, ultimately creating a positive feedback loop.

2) Inuit Rights, Inuit research – baseline studies and monitoring

Given the Panel's concurrence with the meaningful concerns that Inuit have and the Panel's pronouncement of potential significant adverse effects on Inuit, we would like to make it clear that Inuit would like to immediately and constructively address Inuit concerns and impacts to our Rights. Inuit have a right to conduct and lead baseline research and monitoring into a broad suite of potential impacts that the development of the Lower Churchill project would specifically have on Inuit and Inuit Rights. There is a moral and legal obligation on the part of Nalcor as well as the Federal and Provincial Government's to provide the resources necessary to allow this to happen through the development of increased Inuit capacity, as it relates to the proposed Lower Churchill project. **We are requesting that Nalcor, the Provincial Government and the Federal Government combine to provide a minimum of \$200,000 per year, beginning in fiscal year 2012-13 and continuing for the construction phase of the project (i.e. to reservoir inundation), to the Nunatsiavut Government for this program specifically designed to establish baseline conditions directly related to Inuit Rights.** The duration and amount of the financial contribution to the ongoing monitoring program subsequent to the construction phase would be negotiated and agreed upon prior to the end of the construction phase.

In the Panel Hearings, Nalcor committed to monitoring in Lake Melville. However, it was also clear from the Panel Hearings that Nalcor has done virtually no work in the downstream environment, especially Lake Melville. As a result, there is a need for a large scale, comprehensive understanding of this ecosystem, its tremendous importance to Inuit and how changes to it will impact Inuit. These impacts will range from biophysical to cultural to socioeconomic to health impacts. And, these studies should be led by Inuit, as they are most well-equipped to do so (Inuit expertise and leadership is required for the seamless integration of these various components from both western scientific and Traditional Knowledge perspectives to provide a holistic understanding). Although Inuit would lead these studies, we would commit to meaningfully collaborate with others (Nalcor, other Governments, etc.), where possible, and

have the studies independently peer-reviewed and published on a continual basis to ensure transparency, accountability and openness.

To ensure this happens, Inuit have already developed a partnership with ArcticNet, a Networks of Centres of Excellence of Canada that brings together scientists and managers in the natural, human health and social sciences with partners from Inuit organizations, northern communities, federal and provincial agencies and the private sector to study the impacts of climate change and modernization in the coastal Canadian Arctic. ArcticNet is the highest funded Networks of Centres of Excellence in the history of Canada and is funded for seven more years. Labrador Inuit will be leading a specific research program within ArcticNet whose mandate specifically addresses many of the concerns and questions that Inuit have with respect to Lower Churchill project. We have an already established research platform (academic community, ship-time on the most advance research ship in Canada, longliners, etc.) that is ready for implementation and is widely considered within the Canadian scientific community to be the gold standard for research on modernization and climate change impacts in Arctic and sub-Arctic coastal regions. Support from Nalcor as well as the Provincial and Federal Government would allow Inuit to ensure their Rights are protected, as they relate to the proposed Lower Churchill project and the downstream environment. It would also be the most cost-effective means of establishing a baseline and monitoring program within the downstream environment for Inuit. Participating in a broader, well-respected, independent research program (i.e. ArcticNet) would also be invaluable to Nalcor, the Province and the Federal Government. This would add significant credibility to the baseline establishment and monitoring program for Inuit.

Although it was not a formal recommendation of the Panel, the Panel report specifically encouraged Nalcor to explore funding the Nunatsiavut Government under its ArcticNet research program for baseline studies and ongoing monitoring.

We believe that Inuit Rights and how they are impacted through the development of the Lower Churchill should be addressed by Inuit-led research with support from Nalcor, as well as the Federal and Provincial Governments. This would ensure that Inuit concerns about their Rights are addressed in a meaningful way. Through the implementation of this program, we would also commit to work with the much larger baseline establishment and monitoring program led by Nalcor for the overall project to ensure there are complementarities and synergies created.

3) Compensation related to impacts on Inuit and Inuit Rights as a result of the Lower Churchill development

Nalcor has predicted that there will be no significant impacts on Inuit, their Rights or the downstream environment. The Panel clearly did not agree with their predictions. Therefore, **a version of the following framework language (to be finalized through negotiation) should be included as a condition of the permit(s) associated with the development of the Lower Churchill project to ensure that Inuit have a mechanism to be compensated, should impacts be arise:**

- Nalcor shall compensate Inuit for actual present or predicted future losses related to traditional or contemporary harvesting and cultural practices that arise or result from an Unplanned Event related to the Lower Churchill development, in accordance with the following provisions.
- Unplanned Event means an event, however caused, with significant environmental effects on Inuit or Inuit Rights arising or resulting from the Lower Churchill Project and includes:
 - an impact due to Project equipment, facilities or infrastructure;
 - an impact due to release or mobilization of a substance or effluent, including mercury, from Project equipment, facilities or infrastructure or activities;
 - an impact involving transportation infrastructure carrying Project supplies or other materials connected with the Project;
 - acts or omissions by Nalcor, its employees, agents or Contractors that contravene the provisions or laws of general application applicable to the Project;
 - circumstances where significant impacts that were unanticipated in the Environmental Impact Statement arise or result from the normal course of the Project. This includes, without restriction, an increase in methylmercury levels or a change in any part of the physical or biological environment of Lake Melville or the Labrador Inuit Settlement Area.
- If Nalcor or the Nunatsiavut Government believes that an Unplanned Event has occurred, then Nalcor or the Nunatsiavut Government, as the case may be, shall immediately provide notice to the other.
- Upon receipt of the notice provided under the above clause, Nalcor and the Nunatsiavut Government shall agree on the amount of compensation due to Inuit as soon as possible after the extent of the loss, harm or damage has crystallized and in any event, within one year of receipt of such notice, or within any longer time period agreed between Nalcor and the Nunatsiavut Government.
- Nalcor shall pay to the Nunatsiavut Government, for the benefit of Inuit, the amount of compensation agreed upon in the above clause, within such period of time as is agreed between Nalcor and the Nunatsiavut Government.
- If Nalcor does not agree that an Unplanned Event has occurred or that Inuit have suffered harvesting or cultural losses as a result of an Unplanned Event, or if Nalcor and the Nunatsiavut Government cannot agree on the amount or the timing of the payment of the compensation due to Inuit as a result of the Unplanned Event, then Nalcor and the Nunatsiavut Government shall resolve the dispute in accordance with a dispute resolution system to be set up. If the matter is referred to arbitration, the arbitration panel shall have the authority amongst other things to: issue an interim payment order; to determine all matters under the dispute including whether an Unplanned Event has occurred; to make an award of compensation for Inuit harvesting or cultural losses as a result of an Unplanned Event; and to set the timing for payments of compensation.
- In the event that a matter is referred to arbitration under the above clause, the following principles shall govern the assessment of claims for compensation to Inuit for harvesting or cultural losses or damage in connection with the Unplanned Event:
 - the arbitration panel must be reasonably satisfied that the loss of damage to Inuit harvesting or cultural practices that forms the basis of the claim results from the Unplanned Event;

- Inuit and the Nunatsiavut Government shall not be required to prove fault, negligence or causation on the part of Nalcor, its employees, agents or Contractors in order to establish entitlement to compensation;
 - the arbitration panel must be reasonably satisfied as to the nature and extent of the loss of damage to Inuit harvesting or cultural practices resulting from the Unplanned Event;
 - the arbitration panel shall not be bound by the strict rules of evidence and shall give due weight to Inuit Knowledge of wildlife, fish and plants, and wildlife and fish habitats and harvesting and cultural practices by Inuit and take into account the social, cultural and economic importance of wildlife, fish and plants and harvesting and cultural practices to Inuit and any other matter the arbitration panel considers relevant;
 - the amount of the compensation award may be reviewed by the arbitration panel at the request of the Nunatsiavut Government or Nalcor if new facts or circumstances arise or new evidence of Inuit harvesting of cultural practice losses or damage becomes available; and
 - generally accepted principles applicable to the establishment of the quantum of damages and compensation shall apply.
- Claims may be made by the Nunatsiavut Government on behalf of Inuit with respect to the following losses or damage to traditional or contemporary Inuit harvesting and cultural practice activities as a result of an Unplanned Event:
 - Loss or damage to wildlife, fish or plants reduced into possession
 - Present and future loss of wildlife, fish and plants harvested by Inuit
 - Present and future losses incurred in the relocation of harvesting to different or more distant places, in the harvesting of different or alternate species or stocks of wildlife, fish and plants or in changing or acquiring additional harvesting equipment in order to relocate harvesting activities or to harvest different or alternative species or stocks of wildlife, fish and plants;
 - Present and future loss of income from wildlife, fish and plants commercially harvested by Inuit;
 - Present and future loss resulting from a reduction in wildlife or fish or wildlife quotas or allocations available to Inuit; and
 - Present and future loss resulting from behavioral avoidance due to an increase in mercury levels in wildlife, fish or plants
 - Nalcor shall pay the amount of compensation awarded by an arbitration panel to the Nunatsiavut Government, for the benefit of Inuit, at the times or times specified by the arbitration panel.
 - Prior to Nalcor paying any compensation to an Inuk or the Nunatsiavut Government, the Inuk or the Nunatsiavut Government, as the case may be, shall agree in writing not to seek further or other compensation from Nalcor under the laws of general application for the loss or damage in respect of the Unplanned Event which forms the basis of the claim which is being compensated.
 - The payment of compensation by Nalcor shall not be considered an admission of liability or partial liability by Nalcor for the Unplanned Event.
 - Notwithstanding any payment made by Nalcor, Nalcor shall not be relieved from any obligation to avoid losses and damages to wildlife, fish and plants, wildlife and fish habitats and Inuit harvesting and cultural practices, or if such losses and damages occur, to mitigate and to remediate them.

- Nothing written in this Section shall relieve Nalcor from:
 - its responsibilities for protection of the environment in connection with the Lower Churchill Project; or
 - liability for any loss, harm, or damage arising out of the Lower Churchill Project other than loss, harm or damage to Inuit harvesting and cultural practices for which compensation is paid under this Section.
- Except as provided for in this Section, nothing in this Section shall limit or restrict any right or recourse that Nalcor may have against a person, including Nalcor's agent or contractor.
- The provisions of this Section shall not apply to loss of life or personal injuries.

OTHER RECOMMENDATIONS

Although the Nunatsiavut Government are mostly concerned with the above issues related to impacts on Inuit and Inuit Rights, we were also pleased with several other Panel recommendations, including those related to low-income housing, aquatic monitoring, George River caribou, land and resource use, training, infrastructure, communication, environmental management and human health also included. A summary of specific Panel recommendations and Inuit perspectives on these is below. It is important to note, however, that the high level management mechanism to be developed, and which would include Inuit, should work out the details on the implementation of these recommendations as part of their initial mandate.

4. Project needs and alternatives

Panel Recommendation	NG Recommendation	Comments
4.5: Full clearing of the Muskrat Falls reservoir	4	<ul style="list-style-type: none"> • In agreement • Panel recommendation should be more specific with the fate of the wood

6. Aquatic environment

Panel Recommendation	NG Recommendation	Comments
6.2: Environmental flow standards	22	<ul style="list-style-type: none"> • NG supports recommendation
6.3: Erosion and sedimentation prevention	Not specifically addressed by NG recommendations	<ul style="list-style-type: none"> • NG supports recommendation
6.5: Pilot study for methylmercury mitigation through soil removal	Not specifically addressed by NG recommendations	<ul style="list-style-type: none"> • NG supports recommendation
6.7: Assessment of downstream effects	9	<ul style="list-style-type: none"> • Mostly in agreement • To establish baseline and predict/address impacts specific to Inuit and Inuit Rights, the Nunatsiavut Government suggests the process outlined in in our second major recommendation above is adopted.
6.8: Published analysis of downstream effects over time	9	<ul style="list-style-type: none"> • Mostly in agreement • For impacts specific to Inuit and Inuit Rights, the Nunatsiavut Government has committed (under our second

		major recommendation above) to publishing in peer-reviewed journals to ensure transparency and accountability and inform a broader audience.
6.9: Development of the aquatic monitoring program	9	<ul style="list-style-type: none"> • Mostly in Agreement • To monitor impacts specific to Inuit and Inuit Rights, the Nunatsiavut Government suggests the process outlined in our second major recommendation above is adopted.

7. Terrestrial environment and wildlife

Panel Recommendation	NG Recommendation	Comments
7.7: Management of the George River caribou herd	Not specifically addressed by NG recommendations	<ul style="list-style-type: none"> • NG supports recommendation
7.8: Effect of reservoir preparation activities on migratory birds	Not specifically addressed by NG recommendations	<ul style="list-style-type: none"> • NG supports recommendation
7.10: Monitoring, follow-up and adaptive management for the terrestrial environment	Not specifically addressed by NG recommendations	<ul style="list-style-type: none"> • NG supports recommendation

9. Current aboriginal land-use and resource use for traditional purposes

Panel Recommendation	NG Recommendation	Comments
9.3: Community level land and resource use monitoring	8	<ul style="list-style-type: none"> • Mostly in agreement • To monitor impacts specific to Inuit and Inuit Rights, the Nunatsiavut Government suggests the process outlined in our second major recommendation above is adopted. This will ensure its success for Inuit.

12. Economy, employment and business

Panel Recommendation	NG Recommendation	Comments
12.1: Early candidate selection and training	Not specifically addressed by NG recommendations	<ul style="list-style-type: none"> • NG supports recommendation
12.2: Workplace attachment for apprenticeship graduates	Not specifically addressed by NG recommendations	<ul style="list-style-type: none"> • NG supports recommendation
12.3: Training to 'journeyperson' level in community of residence	20	<ul style="list-style-type: none"> • In agreement
12.4: Address wage subsidy stigma	Not specifically addressed by NG recommendations	<ul style="list-style-type: none"> • NG supports recommendation
12.5: Preparing for participation in wage economy	Not specifically addressed by NG recommendations	<ul style="list-style-type: none"> • NG supports recommendation
12.6: Continuation of Labrador Aboriginal Training Partnership	11, 12	<ul style="list-style-type: none"> • Panel Recommendation lacks important financial information and details on training courses. The program should continue at a minimum of its current level of \$15 million/year. The program should also offer substantially more courses/components in Inuit communities.

13. Family and community life, and public services

Panel Recommendation	NG Recommendation	Comments
13.2: Social effects needs assessment and research	6	<ul style="list-style-type: none"> • In agreement • This would link to Inuit specific baseline establishment from a social/health perspective (which would be partially carried out under our second major recommendation above)

13.3: Worksite measures to address addictions issues	6	<ul style="list-style-type: none"> • NG recommendation refers to community level addictions but could be broadened to include that of the workplace
13.4: Variety of work schedules	15	<ul style="list-style-type: none"> • In agreement
13.5: Health and social services	6, 17	<ul style="list-style-type: none"> • In agreement
13.6: Capacity agreement with Happy Valley-Goose Bay	5	<ul style="list-style-type: none"> • In agreement • Indirectly related to NG Recommendation 5
13.7: Funding for infrastructure mitigation	5	<ul style="list-style-type: none"> • In agreement •
13.8: Low-income housing strategy	5	<ul style="list-style-type: none"> • In agreement • Indirectly related to NG Recommendation 5
13.9: Possible requirement for consumption advisories in Goose Bay or Lake Melville	23	<ul style="list-style-type: none"> • Must include Inuit participation, agreement and input.
13.10: Consumption advisory implementation	23	<ul style="list-style-type: none"> • In agreement
13.11: Human health and mercury monitoring	6, 7	<ul style="list-style-type: none"> • In agreement
13.12: Dietary surveys	6, 7	<ul style="list-style-type: none"> • In partial agreement • Panel Recommendation not specify the use of IPY protocols
13.13: Research on mercury in country food	9	<ul style="list-style-type: none"> • In agreement

15. Environmental management

Panel Recommendation	NG Recommendation	Comments
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<p>15.3: Long-term funding for environmental management from Nalcor</p>	<p>10</p>	<ul style="list-style-type: none"> • Mostly in agreement • Some of the funding from Nalcor should be provided directly to the Nunatsiavut Government to ensure impacts on Inuit and Inuit Rights are mitigated through appropriate research and monitoring (i.e. as per major recommendation 2 above).
<p>15.4: Long-term funding for environmental management from government departments</p>	<p>10</p>	<ul style="list-style-type: none"> • Mostly in agreement • Some of the funding from the Provincial and Federal Government should be provided directly to the Nunatsiavut Government to ensure impacts on Inuit and Inuit Rights are mitigated through appropriate research and monitoring (i.e. as per major recommendation 2 above).
<p>15.5: Lower Churchill Project Monitoring and Community Liaison Committee</p>	<p>9</p>	<ul style="list-style-type: none"> • In agreement. Should remain at a level that is below the management mechanism to be established in our major recommendation 1 above.
<p>15.6: Project-specific effects monitoring programs</p>	<p>9, 10</p>	<ul style="list-style-type: none"> • In strong agreement • The NG will ensure that these are implemented in the Inuit-specific research and monitoring program under major recommendation 2 above.
<p>15.7: Adaptive management</p>	<p>Not specifically addressed by NG recommendations</p>	<ul style="list-style-type: none"> • In agreement • Changes must involve the management mechanism
<p>15.10: Local hiring for environmental management work</p>	<p>Not specifically addressed by NG recommendations</p>	<ul style="list-style-type: none"> • NG supports recommendation
