

Date : 9/21/2012 6:59:18 PM

From : "Burt, Paula"

To : "Thompson, Robert" , "Taylor, Brian W."

Subject : Fw: Meeting Note

Robert - Brian. Minister approved NR note
Paula Burt
Assistant Secretary to Cabinet (Economic Policy)
East Block, Confederation Building
St. John's, NL
709-729-2845

Sent Via BlackBerry

From: Cochrane, Rachelle A.
To: Burt, Paula
Sent: Fri Sep 21 17:18:21 2012
Subject: Fw: Meeting Note

Just in. I'm assuming we will formalize on Monday

Sent Via BlackBerry

From: Bown, Charles W.
To: Cochrane, Rachelle A.
Sent: Fri Sep 21 17:12:21 2012
Subject: FW: Meeting Note

Rachelle
Minister's approval is provided below.
Charles

From: Kennedy, Jerome
Sent: Friday, September 21, 2012 5:00 PM
To: Bown, Charles W.
Subject: Re: Meeting Note

Ok.

Sent Via BlackBerry

From: Bown, Charles W.
To: Kennedy, Jerome
Sent: Fri Sep 21 16:56:31 2012
Subject: Meeting Note

Minister;

Your approval is required for a briefing note on FLG in advance on Premiers meeting with PM on Monday. This is the same note you signed off on last week, however, I added two new bullets in the background which according to Cab Sec means that a new approval is required. The two bullets are provided below and the entire note is provided further below.

Charles

- In a meeting between Premier and Minister Flaherty on September 10, Minister Flaherty advised that it was not necessary to go to Cabinet to seek a new negotiating mandate, rather, it could be provided by P&P.
- To-date, Nalcor has provided NRCan with all the requested cost and financial modeling data. NL has received a near-final draft of the MHI report and it can be released to Canada once all technical due diligence has been completed.

Title: Federal Loan Guarantee (FLG) for Muskrat Falls

Issue: To provide background information and a status update on the FLG

Background and Current Status:

- Negotiations between the Province, Canada and Nova Scotia on the federal loan guarantee for the Lower Churchill Project commenced in Spring 2011. On August 19, 2011, the governments of Canada, Newfoundland and Labrador, and Nova Scotia signed a Memorandum of Agreement (MOA).
- The MOA stated that Canada's involvement was based upon the project demonstrating national and regional significance, economic and financial merit, and its ability to significantly reduce greenhouse gas emissions. The FLG commitment was subject to due diligence by Canada in

respect of the form of guarantee to be provided, but not as to whether or not the guarantee would be provided.

- The commencement of negotiations on the finalization of the loan guarantee was delayed pending the completion of pre-conditions set out in the MOA, including: 1) completion of the “shadow rating” process undertaken with credit rating agencies and; 2) Canada retaining a financial advisor.
- The original intention was for a limited timeframe for the federal due diligence process to take place once these pre-conditions were met, including establishment of the project data room. However, discussions were delayed as there was a dispute in respect of when the federal due diligence processes were to start. Ultimately, the Government of Canada delayed formal negotiations until it obtained a formal negotiating mandate from Cabinet.
- Negotiations between Nalcor, Emera, the Governments of NL and NS and the Government of Canada led by Natural Resources Canada (NRCan) respecting the form and content of the loan guarantees started in the spring of 2012. NRCan provided a Term Sheet detailing the amount of the guarantee, term over which the guarantee would be provided and specific conditions and events of default.
- It was apparent that the Term Sheet was based on Decision Gate 2 (DG2) information provided to NRCan. At the time the information was provided, NRCan was advised that the numbers were subject to change once the detailed project engineering was completed for DG3. Nevertheless, the Term Sheet provided by NRCan had the DG2 data hard coded and was referenced by them as being their negotiating mandate.
- Negotiations commenced on many of the Term Sheet items but the amount of the guarantee and the term was excluded from discussion. These items were identified by NL and NS as being based on DG2 data and insufficient given that, internally, it was already known that the costs had increased.
- In mid-August NRCan was provided with DG3 cost numbers. Those numbers provoked a number of reactions from federal officials:
 - Negotiators for Canada restated that their authority from the Federal Cabinet was based upon the DG2 numbers which they took to be the final project costs, as opposed to preliminary cost estimates that would be subject to increase.
 - On 17 August, 2012, Serge Dupont, Deputy Minister, NRCan, wrote to Ed Martin and requested that the DG3 cost estimates and updated financial models be added to the data room for the project to facilitate the due diligence review of the federal government’s financial advisor. Mr. Dupont advised that the results of this review could result in a request to have the shadow credit rating process (completed in the fall of 2011) repeated based on the revised cost estimates.
 - In the same correspondence, Mr. Dupont also requested that Nalcor engage an independent engineer to assess project engineering details and costs. He noted that subject to these steps and the requisite economic and financial analysis, NRCan would be in a position to “recommend next steps to the federal government, including consideration of an update to the negotiating mandate for a term sheet setting out the key parameters of a loan guarantee for (the Project)”.
- Subsequent to this letter NRCan has formally requested at the negotiating table that all relevant cost data and financial models be placed in the data room, that Nalcor and Emera provide updated credit ratings based on the new project costs, and that NL provide Canada with a copy of the MHI report. This last condition has been substituted to replace the earlier requirement for the completion of a report by an independent engineer. NS was also asked to provide a proposal for a completion guarantee for the Maritime Link.
- NRCan has stated that they will provide this information to their financial advisor to complete a detailed review and analysis, after which they will provide their Minister with a detailed briefing. Subsequent to this briefing, the Minister will decide whether to ask the PM for permission to return to Cabinet for a new negotiating mandate.
- In a September 10 meeting between Ministers Oliver and Kennedy, Minister Oliver stated that the earliest that he could obtain a new negotiating mandate was October 31. Minister Kennedy pointed out that this time frame is inconsistent with the NL Government’s desire to hold a special debate the House of Assembly.
- In a meeting between Premier and Minister Flaherty on September 10, Minister Flaherty advised that it was not necessary to go to Cabinet to seek a new negotiating mandate, rather, it could be provided by P&P.
- To-date, Nalcor has provided NRCan with all the requested cost and financial modeling data. NL has received a near-final draft of the MHI report and it can be released to Canada once all technical due diligence has been completed.

Speaking Points

- NL appreciates that that the new cost data may require the NRCan Minister to speak with the PM and/ or go back to Cabinet.
- Higher costs are typical of major projects as the level of project engineering and detail increases. This potential was highlighted to NRCan and its financial advisor prior to it receiving the initial Cabinet mandate.
- The timeline suggested by Minister Oliver to obtain a new mandate is inconsistent with NL’s need to schedule the release of project data, reports and a HOA debate.
- The project cannot sustain continued spending beyond October without certainty on the loan guarantee.
- A Project delay will see the project suspended for a year as weather windows are lost. The project will also lose valuable human resources and costs will increase.
- A HOA debate is not possible without the loan guarantee as there is a public expectation that it will be completed. The absence of a guarantee could signal that the federal government does not support the project.

Action Being Taken:

- NL will continue to press Canada for a compressed timeframe to provide the loan guarantee.

Prepared / Approved by: Paul Scott/ C Bown (DM)
Minister Kennedy

10 September 2012

Updated 21 September 2012