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Subject : EPCA - FINAL MATERIALS

Attachment : ProductionAgreement-NewsRelease-June11,2007-Version2.doc;ProductionAgreement-Keymessages-June2007.doc;ProductionAgreement-Q&As-June2007.doc;ProductionAgreement-SNHoA-June2007.doc;ProductionAgreement-newserSNs-General-June2007.doc;

Hi.

Please see attached, all now reviewed by andre and signed off:

- news release and backgrounder
- questions and answers
- key messages
- speaking notes media availability
- speaking notes house of assembly

Thanks. Am on my way to the building with a package for the minister.

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Natural Resources
June 13, 2007

Province Moves to Optimize Water Management of Rivers

The Provincial Government is moving to regulate the coordination of water management on provincial rivers to ensure hydroelectric facilities operating on the same river work together to optimize the value of the resource, and therefore the benefit to the province and power generators.

The amendment to the *Electrical Control Power Act* (ECPA) provides a framework for the Public Utilities Board (PUB) to regulate the coordination of water management agreements. The amendment will ensure that delivery commitments under existing power contracts are honoured, including the 1969 power contract for the Upper Churchill.

“The water management agreements will be subject to the approval of the PUB. If an agreement cannot be reached, the parties can apply to the PUB to resolve it,” said the Honourable Kathy Dunderdale, Minister of Natural Resources. “The amendment will apply to any provincial river where more than one hydroelectric development could occur..”

The amendment is being debated in the House of Assembly today and provides hydroelectric operators sharing a river system, as will be the case on the Churchill River with the Lower Churchill Project, with certainty over the coordination of water flow. It will provide a fair and transparent framework for the PUB to review water management agreements between operators to ensure the province’s objective of maximizing benefits is met.

Water management agreements are standard on rivers with more than one operator. As stewards of the resource, government is taking its responsibility over this valuable resource seriously by ensuring optimal benefits for all parties from its development.

“The time has come in the planning process of the Lower Churchill Project to introduce this legislation so we can continue to advance the project,” said Minister Dunderdale. “This is about moving forward. These rivers belong to the people of Newfoundland and Labrador and it is the responsibility of the province to maintain control of its resources and ensure our water is regulated in such a way that optimizes the benefit to the province.”

Through this amendment, the needs of both the Churchill Falls facility and the Lower Churchill Project will be accommodated, as will the needs of any other hydroelectric developments in the province. With this amendment, the Provincial Government is ensuring that operators work together to reach an arrangement that is in the best interest of both facilities and the province.

“We believe that a legislative framework is appropriate to provide a process for all operators and developers,” the minister said. “In the case of the Lower Churchill, this allows us to have certainty over future water flow so we can move forward with the project.”

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BACKGROUNDER **Water Management**

Hydroelectric facilities are designed to ensure that water flow is managed in a way that optimizes the value of the resource and generates power as efficiently as possible.

Water flow is controlled and run through generators to:

- Minimize water loss through spillage;
- Maximize electricity production;
- Maximize value of the resource and benefits; and,
- Ensure a secure and reliable supply of power on an annual basis.

The scheduling or control of the water flow to achieve the optimal value from the resource is known as “water management” and requires coordinating water storage and flow through the facility. This coordination is a regular part of an operator’s production schedule.

However, some watersheds may support more than one hydroelectric facility. In that event, production of all facilities must be coordinated to ensure that the interests of each operator are protected and the best use is made of the available water.

These arrangements are known as water management or power coordination agreements. These agreements not only satisfy the operational objectives of each facility, but also provide certainty over the coordination of water flow into the future to secure project financing and customers.

The *Electrical Power Control Act* is the central element of the province's electricity policy. It governs the management and operation of facilities for the production and distribution of power and the general management of the electricity sector.

The amendment provides a framework for the Public Utilities Board (PUB) to regulate coordination of water management agreements. It will ensure that in cases where more than one operator shares a watercourse, water use is coordinated for the protection of each operator.

With this amendment, the PUB will review water management agreements negotiated between parties to ensure the objects of the Act are met. If not, the PUB has the ability to modify or refuse the agreement. The PUB will also be able to impose the terms of a water management agreement if the operators cannot reach an arrangement. Rulings by the PUB will be binding on the parties.

The provincial hydroelectric inventory lists many watercourses on the island and in Labrador containing multiple potential development sites. These undeveloped sites may eventually be developed by multiple developers who will require suitable conditions to move forward.

**DEPARTMENT OF NATURAL RESOURCES
WATER MANAGEMENT
KEY MESSAGES
June 13, 2007**

- We are moving to regulate the coordination of water management on provincial rivers to ensure that hydroelectric facilities operating on the same river work together to optimize the value of this valuable resource, and therefore the benefit to the province and power generators.
- The amendment to the *Electrical Power Control Act* provides a framework for the Public Utilities Board (PUB) to regulate the coordination of water management agreements.
- The amendment will apply to any provincial river where more than one hydroelectric development could occur.
- The amendment will ensure that delivery commitments under existing power contracts are honoured, including the 1969 power contract for the Upper Churchill. This protection is explicitly written into the amendment.
- This is about moving forward with a legislative framework that is appropriate to provide hydroelectric operators sharing a river system, as will be the case on the Churchill River with the Lower Churchill Project, with certainty over the coordination of water flow.
- This legislation makes sense. Water management agreements are standard on rivers with more than one operator.
- The amendment will provide a fair and transparent framework for the PUB to review water management agreements between hydroelectric operators to ensure the province's objective of maximizing benefits from the development of this resource is met.
- Our government's position on resource management is very clear – any development must optimize the value to the people of the province and to the power generators.
- Under the amendment, the water management agreements will be subject to the approval of the PUB. If an agreement cannot be reached, the parties can apply to the PUB to resolve it. This ensures the development of our water resources cannot be held up by disagreements between operators.

- The PUB will have the authority to approve, refuse or amend the water management agreement that has been submitted by the parties, based on the policy objectives in the Act and regulations.
- The amendment ensures a resolution in the event the parties are not able to conclude an agreement in a timely fashion. In that case, one of the parties may apply to the PUB to establish the terms of an agreement. Arrangements established by the PUB are binding.
- This is an important step in the planning for the development of the Lower Churchill Project. This amendment will allow us to continue to advance the project and secure financing and markets based on the certainty this affords us.
- Through this amendment, the needs of both the Churchill Falls facility and the Lower Churchill Project will be accommodated, as will the needs of any other hydroelectric developments in the province. With this amendment, the Provincial Government is ensuring that operators work together to reach an arrangement that is in the best interest of both facilities and the province.
- We believe that a legislative framework is appropriate to provide certainty of a process for all operators and developers in this province.
- This amendment is about moving forward in the development of our resources for the benefit of the people of the province.
- This amendment is another step in providing the people of the province with the appropriate tools to get the most out of our energy developments.
- These rivers belong to the people of the province. As government, we are stewards of these resources and it is our responsibility to ensure we maintain control of our valuable resources.
- The changes we are making today will provide certainty of power production to hydroelectric operators that share a watercourse in this province. Other jurisdictions have legislation ensuring the optimization of the resource.
- We are moving to optimize production and mitigate negative impacts through cooperation by the parties on the same watercourse. The PUB will have the authority to regulate the coordination of water management agreements, but the parties will have an opportunity to reach an agreement on their own.

- This type of legislation gives the financiers and potential customers of hydroelectric developments that share a river system, as will be the case with the Lower Churchill Project, the certainty they need to finance the project and enter into power purchase agreements.
- NLH and CF(L)Co will begin to negotiate the specifics of this agreement and if an agreement is reached, the PUB will review that agreement as regulator, based on the principles established by the province in the regulations.
- This amendment is good provincial policy that ensures fairness for all operators on shared watercourses. It will provide for optimal production from both facilities on the Churchill River and will result in the most efficient production, transmission and distribution of power.
- Aside from the operators and developers, the amendment gives stakeholders and investors' confidence that their power supply will not be interrupted by disputes over water management.
- We need to get the most from our resources for the long-term benefit of all sectors of the economy, for all people of the province, and for the continued sustainable development of our industry.

CONFIDENTIAL
Department of Natural Resources
Water Management
Questions and Answers
June 13, 2007

1. Why is this amendment being introduced?

The intent is to provide hydroelectric operators sharing a watercourse with clarity and certainty around the coordination of water flow, which is of benefit to both the upstream and downstream operators.

This is another step in providing the people of the province with the tools to get the most out of our energy developments. We are moving to regulate the coordination of water management on provincial rivers to ensure hydroelectric facilities operating on the same river work together to optimize the value of the resource, and therefore the benefit to the province.

In the case of the Lower Churchill Project, this amendment will give the financiers and potential customers the certainty they need to finance the project and sign power purchase agreements.

2. What will the amendment do?

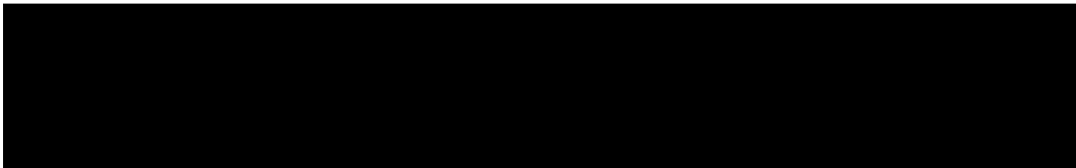
Water management agreements will be subject to the approval of the PUB. In the event an agreement cannot be reached, the parties can apply to the PUB to impose one that is in the best interest of both parties and the province.

The river belongs to the people of Newfoundland and Labrador and it is the responsibility of the province to maintain control of its resources and ensure that the use of that water supply is regulated in a way that it maximizes the benefits to the province.

Through this amendment, the use of shared watercourses will be regulated throughout Newfoundland and Labrador to ensure that the use of water resources is optimized.

3. Why are we implementing this amendment now?

This is an important step in the planning of the development of the Lower Churchill Project. At the same time, we're not sure why this was not included when the legislation was created in 1994 because it makes sense to ensure water management agreements exist on rivers with more than one operator.



This is another step in government's strategic approach towards the development of our resources and this project.

4. Does this mean the Lower Churchill Project is in trouble?

Not at all. This strengthens our position in that it gives our financiers and potential customers the certainty they require to finance the project and enter into power agreements. This provides an important assurance that if NLH Hydro and CF(L)Co can't reach a water management agreement, that a mechanism exists to ensure the development is not held up.

5. Is this an attempt to get at the 1969 power contract for the Upper Churchill?

Anyone who looks at the legislation will know that the delivery commitments under existing power contracts are honoured, including the 1969 power contract with Hydro Quebec.

Our intent is not to impact our commitments under that agreement. We are tied to that contract and we will honour those commitments. Debate on that one was done a long time ago and we lost.

6. Is this designed to get around the shareholders' agreement of 1998?

Obviously government has considered all of the relevant history in developing this legislative framework. To the extent that any agreement between the shareholder and CF(L)Co complicates the negotiations of a power coordination agreement, that is an issue for the shareholders. Our objective is to create a framework that optimizes the use of the resource and that facilitates development.

We can't have two developers or operators setting water resource policy for the province. We need to have an oversight role and it is the PUB's job to ensure the *Electrical Power Control Act* policies are complied with.

7. Why is this necessary in the case of the Lower Churchill?

Government is not prepared to leave any resource development issue hanging on contractual negotiations between parties. We would hope they can reach an agreement. If they can't, we won't let it hold up the development of the resource.

8. What authority will the Public Utilities Board be given?

This amendment will provide the PUB with the authority to review water management agreements reached between facility operators that share a water course, and make modifications based on the objectives set out in the regulations to the EPCA.

If an agreement cannot be reached by the operators, one of those parties would submit a proposed agreement to the PUB at which point the Board would hold hearings and then put forward an agreement that would be fair and would not impact on other operational contracts related to the facilities.

9. What expertise does the PUB have in this area?

The Board is a credible and independent entity of the province and is an appropriate body to put forward an agreement if one cannot be reached. The PUB can also bring in outside expertise if they felt that was needed, and charge the cost of this process back to the parties.

The Board regularly ensures the public of Newfoundland and Labrador are well served by achieving an equitable balance between the interests of consumers and service providers.

10. What other jurisdictions across Canada have this type of legislation?

Other provinces have legislation intended to control or optimize the use of water, including the operation of hydroelectric plants. Examples include the Manitoba Energy Act, the Ontario Lakes and Rivers Improvement Act, the Quebec Watercourses Act, and the Saskatchewan Watershed Authority Act, and others.

11. This amendment must mean there is a need to impose a Water Management Agreement on the Churchill River - what is the status of negotiations with HQ with respect to the Lower Churchill development?

Introducing this amendment does not mean there is a need for the PUB to get involved in negotiations. We would hope that NLH and CF(L)Co will negotiate a mutually acceptable agreement and this framework provides ample opportunity for that process to unfold.

If it does not, we, as a government, are committed to ensuring that a regime is in place so that the resources of the province are developed to their maximum benefit and in a timely fashion.

The framework we are establishing is for the PUB to regulate the coordination of water management agreements to ensure hydroelectric facilities operating on the same river work together to optimize the value of the resource.

12. Could Hydro Quebec veto this amendment through the Shareholders agreement or the 1969 Power Contract?

No. This is an amendment to the province's own legislation and is separate from any agreement that NLH or CF(L)Co has with Hydro-Quebec.

13. What implications will this amendment have on the 1969 Power Contract?

This amendment does not adversely effect any existing power contracts, including the 1969 contract.

14. Will this negatively impact Quebec at all?

No. This is good provincial policy that will not negatively impact on the operations at Churchill Falls. The amendment will ensure optimization of production from both facilities on the Churchill River and will result in the most efficient production, transmission and distribution of power on that watercourse.

15. Why wouldn't Hydro-Quebec want to reach a production agreement?

We certainly hope that, as shareholder of CF(L)Co, Hydro-Quebec would support a water management agreement. In the event that an agreement cannot be reached, this framework provides for the establishment of an agreement through a fair and transparent process.

16. Would this legislation apply to CF(L)Co, aren't they excluded from PUB authority?

This legislation would apply to NLH and CF(L)Co. While aspects of CF(L)Co's operations are excluded from regulation, notably the supply of electricity to Hydro-Québec and NLH under the 1969 Power Contract, CF(L)Co. is not completely exempt from regulation.

17. How does this legislation relate to the Government's long-promised Energy Plan?

The proposed legislation is intended to deal with a specific issue related to hydro operators that share a watercourse. The Energy Plan addresses the energy sector on a provincial basis.

18. Does the Government intend to end the moratorium on small hydro development?

Government's intent in this area will be addressed in the Energy Plan.

19. What securities are in place to ensure Quebec complies with the decision made by the PUB? Could water rights be reverted?

Quebec or Hydro Quebec is not directly affected by this legislation, as they are not an operator on a river in the province. They are, however, a shareholder in CF(L)Co, which is an operator. It is CF(L)Co that has to comply.

Penalties for non-compliance with the provisions of the EPCA are prescribed in the Act, and civil action for failing to comply with a legal order is also an alternative.

20. In the case of conflicting interests on a water course, which rights take priority - an existing operation or a new or proposed development?

The intent of this legislation is to optimize production and mitigate negative impacts through cooperation by the parties on a shared watercourse. If the parties do not agree, then we foresee the Public Utilities Board imposing an arrangement that respects the rights and needs of both parties to operate and develop facilities on that river.

21. When will this amendment to the Act come into affect?

This amendment will be proclaimed later this year. If NLH and CF(L)Co can negotiate a mutually-agreeable arrangement without this legislation, that would be a desirable outcome. Government believes, however, that a legislative framework is appropriate to provide the certainty of a process for all operators and developers in any event.

22. Aside from the Churchill River, where else could this amendment be relevant?

Situations in the province where this agreement could apply are:

- Hind Lake and Deer Lake
- Red Indian Falls, Badger Chute, Grand Falls and Bishop Falls
- Churchill Falls, Gull Island and Muskrat

23. Are there current agreements recognized in the province?

Water management agreements are not required within the Bay d'Espoir development, as Newfoundland and Labrador Hydro operates all facilities on the water course. However, there is an agreement in place between Newfoundland & Labrador Hydro and Abitibi Consolidated regarding Victoria Lake water use via a diversion south.

In the case of the Hinds Lake (Newfoundland and Labrador Hydro) and Deer Lake (Corner Brook Pulp and Paper) developments, the operation of the Hinds Lake facility does not have a meaningful impact on the operation of the Deer Lake facility, as only approximately 10 per cent of the flow into the Deer Lake reservoir (Grand Lake) is controlled by Hinds Lake.

24. Give us an example of how an operator could potentially disrupt supply?

As the flow of water to a downstream operator originates from the upstream facility, a problem could result if the flow in the upstream plant is not sufficient for the downstream operator to meet its production needs.

Similarly, if the upstream plant operates at a high level when local flows are too great, and water is being spilled downstream, water that could be used for power generation is wasted.

This amendment seeks to optimize production so that these events are avoided.

25. There is not much detail in the proposed legislation. What mandate or direction will the PUB be given regarding water management?

The direction to the PUB will be provided more specifically through regulations as approved by the Minister of Natural Resources.

Approved: June 13, 2007

**DEPARTMENT OF NATURAL RESOURCES
WATER MANAGEMENT DEBATE
SPEAKING NOTES – HOUSE OF ASSEMBLY
June 13, 2007**

- I am pleased today to rise in the House today to speak to this bill – an Act to amend the Electrical Power Control Act.
- The Electrical Power Control Act sets out provincial policy in regards to the setting of electric power rates, the management and operation of facilities for the production and distribution of power, and for the general management of the electricity sector.
- It also outlines the role of the Public Utilities Board in regulating the electricity industry.

- With this amendment to the Electrical Power Control Act, we are moving to regulate the coordination of water management on provincial rivers. We believe the PUB is the appropriate body to do this, given its mandate under the Act already in regulating the electricity industry.
- We are bringing in this amendment to ensure that hydroelectric facilities operating on the same river work together to optimize the value of this resource, and therefore the benefit to the province and to the power generators.
- We want to optimize production on a river to ensure maximum benefits for all parties. We do this, for example, by avoiding spills of water and enabling production sharing between facilities.

- The amendment provides a framework for the PUB to regulate the coordination of water management agreements between two or more parties on the same river.
- Under this amendment, the parties must enter into an agreement for the water management of the river, which will be referred to the PUB. The PUB will be able to approve the agreement, approve it with changes or reject it.
- If the parties can't reach an agreement in a reasonable time, one can apply to the PUB to establish an agreement that is binding on both of them. The PUB will also have the authority to monitor and enforce the agreements.

- This is about moving forward with a legislative framework that is appropriate to provide hydroelectric operators sharing a river system, as will be the case on the Churchill River with the Lower Churchill Project, with certainty over the coordination of water flow.
- The amendment applies to any provincial river where more than one hydroelectric development could occur. Other rivers where the amendment could apply include the Exploits River and Hinds Lake and Deer Lake.
- The amendment will ensure that delivery commitments under existing power contracts are honoured, including the 1969 power contract for the Upper Churchill. This protection is explicitly written into the amendment.

- Water management agreements are a standard on rivers with more than one operator. This is good business to ensure any development maximizes the value of the resource for the people of the province and the power generators.
- Through this amendment, the needs of both the Churchill Falls facility and the Lower Churchill Project will be accommodated, as will the needs of any other hydroelectric developments in the province.
- The Provincial Government is ensuring that operators on the same watercourse work together to reach an arrangement that is in the best interest of both facilities and the province.

- We believe that a legislative framework is appropriate to provide a process for all hydroelectric operators and developers in this province as it relates to water management.
- This amendment is about moving forward in the development of our resources for the benefit of the people of the province, which is consistent with this government's approach since taking office. This is about ensuring we have the appropriate tools to get the most out of our energy developments.
- These rivers belong to the people of the province. As government, we are stewards of these resources and it is our responsibility to ensure we maintain control of our valuable resources.
- The changes we are making today will provide certainty of power production to hydroelectric operators that share a watercourse in this province.

- We are moving to optimize production and benefits for all parties, and mitigate negative impacts through cooperation by the parties on the same watercourse.
- Although we are given the PUB the authority to regulate the coordination of water management agreements, the parties will have an opportunity to reach an agreement on their own.
- This type of legislation gives the financiers and potential customers of hydroelectric developments that share a river system the certainty they need to finance projects and enter into power purchase agreements.
- We believe the amendment is good provincial policy that ensures fairness for all operators.

- It will provide for optimal production on our watercourses and will result in the most efficient production, transmission and distribution of power.
- We need to get the most from our resources for the long-term benefit of all sectors of the economy, for all people of the province, and for the continued sustainable development of our industry. Thank you.

**DEPARTMENT OF NATURAL RESOURCES
WATER MANAGEMENT
SPEAKING NOTES – MEDIA AVAILABILITY
June 13, 2007**

- Good afternoon. I won't take up too much of your time with a lengthy preamble. I'm sure the technical briefing and news release provide you with enough information to ask me a few questions, as if you need help in that area.
- I do just want to take a few minutes to go over some of the intent of the changes we are making to the Electrical Power Control Act and what it will mean for hydroelectric operators on our provincial rivers.

- With this amendment, we are moving to regulate the coordination of water management on provincial rivers to ensure that hydroelectric facilities operating on the same river work together to optimize the value of this resource, and therefore the benefit to the province and to the power generators.
- The amendment provides a framework for the Public Utilities Board (PUB) to regulate the coordination of water management agreements between two or more parties on the same river.
- It applies to any provincial river where more than one hydroelectric development could occur.

- The amendment will ensure that delivery commitments under existing power contracts are honoured, including the 1969 power contract for the Upper Churchill. This protection is explicitly written into the amendment.
- This is about moving forward with a legislative framework that is appropriate to provide hydroelectric operators sharing a river system, as will be the case on the Churchill River with the Lower Churchill Project, with certainty over the coordination of water flow.
- Water management agreements are a standard on rivers with more than one operator. This is just good business to ensure any development maximizes the value of the resource for the people of the province and the power generators.

- Through this amendment, the needs of both the Churchill Falls facility and the Lower Churchill Project will be accommodated, as will the needs of any other hydroelectric developments in the province.
- With this amendment, the Provincial Government is ensuring that operators work together to reach an arrangement that is in the best interest of both facilities and the province.
- We believe that a legislative framework is appropriate to provide certainty of a process for all operators and developers in this province. This amendment is about moving forward in the development of our resources for the benefit of the people of the province. It is about ensuring we have the appropriate tools to get the most out of our energy developments.

- These rivers belong to the people of the province.
As government, we are stewards of these resources and it is our responsibility to ensure we maintain control of our valuable resources.
- The changes we are making today will provide certainty of power production to hydroelectric operators that share a watercourse in this province. We are moving to optimize production and mitigate negative impacts through cooperation by the parties on the same watercourse.
- The PUB will have the authority to regulate the coordination of water management agreements, but the parties will have an opportunity to reach an agreement on their own.

- This type of legislation gives the financiers and potential customers of hydroelectric developments that share a river system the certainty they need to finance projects and enter into power purchase agreements.
- We believe the amendment is good provincial policy that ensures fairness for all operators. It will provide for optimal production on our watercourses and will result in the most efficient production, transmission and distribution of power.
- We need to get the most from our resources for the long-term benefit of all sectors of the economy, for all people of the province, and for the continued sustainable development of our industry. With that, I am prepared to answer any questions you may have.