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# Nalcor, lawyer wrangle over water management rights

Lawyer Bern Coffey said Nalcor has not given a valid answer in dismissing concerns he raised about the water management agreement for the Churchill Falls reservoir.



— Telegram file photo

## A recent photo of Muskrat Falls.

Nalcor issued a statement in response to Coffey's letter to the editor in the Weekend Telegram, which noted the contract with HydroQuébec states firm capacity shall be available at all times when Hydro-

Québec has requested it.

Coffey said before the province sanctions billions in spending on the Muskrat Falls project, either an agreement on water management rights is needed with Hydro-Québec, or the courts have to iron out what Nalcor and HydroQuébec's rights are.

"Nalcor's media release omits any reference to the contractual right given Hydro-Québec by the second sentence in subsection 6.4 of the Hydro-Québec power contract (and subsection 5.2 of the renewed power contract), which sentence reads, 'In addition whenever additional capacity can, in the opinion of CFLCo, be made available, such capacity shall also be available to Hydro-Québec on request,'" Coffey said.

"That contractual provision is also referenced in a recital in the 1998 guaranteed winter availability contract."

In his letter to the editor, Coffey, one of a group of lawyers involved in 2041 Energy Inc., aimed at promoting alternatives to the Muskrat Falls hydroelectric development, raised concerns about the water management agreement and that without Hydro-Québec's consent, Nalcor has no right to "store water" in the Churchill Falls reservoir if such storage would "adversely affect" HydroQuébec's contractual rights.

But Nalcor insists Hydro-Québec doesn't control the Churchill River or have the right to determine the timing and capacity of electrical output at Churchill Falls.

While Hydro-Québec has contracted rights for specific output from the Churchill Falls plant varying slightly between winter and summer seasons, how Churchill Falls meets its contractual obligations to Hydro-Québec is at the discretion of Churchill Falls, Nalcor said.

"The water management agreement between Nalcor Energy and Churchill Falls defines how the two companies manage the flow of water on the upper and lower Churchill River to optimize and maximize output of the river," Lower Churchill Project vice-president Gilbert Bennett said in a news release.

"No agreement or consent by Hydro-Québec is required to provide water management certainty for the lower Churchill developments."

Bennett said Tuesday Nalcor is simply not worried about the contract Coffey has raised.

"We don't see a role for HydroQuébec here. They are a customer of Churchill Falls," Bennett said.



"At the end of the day, Nalcor had two sets of law firms working its side of the agreement, Churchill Falls had two sets of lawyers. ... We are all very comfortable with the water management agreement."

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