



Government of Newfoundland and Labrador
Department of Environment and Conservation
Office of the Deputy Minister

November 9, 2011

TO: All Deputy Ministers & Equivalent

**RE: Draft Government Response to Joint Review Panel's Recommendations
Lower Churchill Hydroelectric Generation Project**

I write to ask you to review the draft provincial responses to the Lower Churchill Generation Panel Report recommendations. Responses have been drafted by the Department or Agency which have the provincial mandate related to the recommendation.

Please review, giving particular attention, to responses in which your Department is a secondary interest or did not contribute. We are looking for input to finalize a coordinated government response in the event any issue has been overlooked. The response statements rational have been included for your convenience.

Please identify any key or sensitive recommendations that you feel need to be discussed at the upcoming DMs Steering Committee scheduled for the week of November 21st to 25th. A draft response document and a table outlining assigned departments responsible for responses can be found on the Secure Directory and can be accessed by your Departmental DM secretary.

Please send your comments to myself at wparrott@gov.nl.ca and Paul Carter of the Environmental Assessment Division at 729-0188, email pcarter@gov.nl.ca on or before the end of the day on November 17, 2011. In the meantime, should you wish to discuss, please call me as soon as possible at 729-2572.

Yours truly,

A handwritten signature in blue ink, appearing to read "Bill Parrott".

BILL PARROTT
Deputy Minister

cc: Julia Mullaley

First Draft - November 8, 2011

**Government of Newfoundland and Labrador's Response
to the
Report of the Joint Review Panel
for
Nalcor Energy's Lower Churchill Hydroelectric Generation Project**

EA Reg. 1305

The Project

(Add here)

The Environmental Assessment Process

(Add here)

The Joint (Federal-Provincial) Review Panel Report

(Add here)

Government of Newfoundland and Labrador's Conclusions

(Add here)

Response to Recommendations

Note: Rationale – to be removed from final version

(No. 1)

Recommendation 4.1 – Government confirmation of projected long-term returns

The Panel recommends that, if the Project is approved, before making the sanction decision for each of Muskrat Falls and Gull Island, the Government of Newfoundland and Labrador undertake a separate and formal review of the projected cash flow of the Project component being considered for sanctioning (either Muskrat Falls or Gull Island) to confirm whether that component would in fact provide significant long-term financial returns to Government for the benefit of the people of the Province. Such financial returns must be over and above revenues required to cover operating costs, expenditures for monitoring, mitigation and adaptive management, and financial obligations to Innu Nation. The Panel further recommends that the Government of Newfoundland and Labrador base these reviews on information on energy sales, costs and market returns that have been updated at the time of sanction decision, and make the results of the reviews public at that time. The financial reviews should also take into account the results of the independent alternatives assessment recommended in Recommendation 4.2.

Response:

(Add NR – Energy here)

First Draft - November 8, 2011

Rationale:

(No. 2)

Recommendation 4.2 – Independent analysis of alternatives to meet domestic demand

The Panel recommends that, before governments make their decision on the Project, the Government of Newfoundland and Labrador and Nalcor commission an independent analysis to address the question “What would be the best way to meet domestic demand under the ‘No Project’ option, including the possibility of a Labrador-Island interconnection no later than 2041 to access Churchill Falls power at that time, or earlier, based on available recall?” The analysis should address the following considerations:

- why Nalcor’s least cost alternative to meet domestic demand to 2067 does not include Churchill Falls power which would be available in large quantities from 2041, or any recall power in excess of Labrador’s needs prior to that date, especially since both would be available at near zero generation cost (recognizing that there would be transmission costs involved);
- the use of Gull Island power when and if it becomes available since it has a lower per unit generation cost than Muskrat Falls; the extent to which Nalcor’s analysis looked only at current technology and systems versus factoring in developing technology;
- a review of Nalcor’s assumptions regarding the price of oil till 2067, since the analysis provided was particularly sensitive to this variable;
- a review of Nalcor’s estimates of domestic demand growth (including the various projections to 2027 in the EIS (2007, 2008, 2009 and the 0.8 percent annual growth to 2067 provided at the hearing);
- Nalcor’s assumptions and analysis with respect to demand management programs (compare Nalcor’s conservative targets to targets and objectives of similar programs in other jurisdictions and consider the specific recommendations, including the use of incentives to curtail electric base board heating, from Helios Corporation, among others);
- the suggestion made by the Helios Corporation that an 800 MW wind farm on the Avalon Peninsula would be equivalent to Muskrat Falls in terms of supplying domestic needs, could be constructed with a capital cost of \$2.5 billion, and would have an annual operating cost of \$50 million and a levelized cost of power of 7.5 cents per kilowatt-hour;
- whether natural gas could be a lower cost option for Holyrood than oil; and
- potential for renewable energy sources on the Island (wind, small scale hydro, tidal) to supply a portion of Island demand.

First Draft - November 8, 2011

Response:

(Add NR – Energy here)

Rationale:

(No. 3)

Recommendation 4.3 – Integrated Resource Planning

The Panel recommends that the Government of Newfoundland and Labrador and Nalcor consider using Integrated Resource Planning, a concept successfully used in other jurisdictions. Such an approach would involve interested stakeholders and look simultaneously at demand and supply solutions and alternative uses of resources over the medium and long term.

Response:

The Government of Newfoundland and Labrador accepts this recommendation.

Rationale:

- Nalcor and NL Hydro’s project planning for the Project followed the current system planning methodology.
- The PUB has considered IRP in the past, and has indicated that it will consider its merits in the future:
 - “The Board will convene a meeting of stakeholders including Hydro and the parties to this proceeding to discuss the scope of an IRP process with the timing of such an exercise to be determined by the Board.” P.U.8(2007)
- If IRP is implemented, it would apply to future projects and not be retroactive to the Project.

(No. 4)

Recommendation 4.4 – Project sequencing and applying lessons learned

The Panel recommends that, if the Project is approved, and if for any reason construction of the Gull Island portion of the Project occurs before Muskrat Falls, Nalcor should be expected to apply the lessons learned from the construction of Gull Island to the construction of Muskrat Falls.

Response:

The Government of Newfoundland and Labrador accepts this recommendation.

Rationale:

Government agrees that Nalcor should apply lessons learned during the construction of any major project to future projects.

(No. 5)

Recommendation 4.5 – Full clearing of the Muskrat Falls reservoir

First Draft - November 8, 2011

The Panel recommends that, if the Project is approved, Nalcor be required to apply its 'full clearing' reservoir preparation option to the Muskrat Falls reservoir.

Response:

The Government of Newfoundland and Labrador accepts the intent of the full clearing reservoir preparation option for the Muskrat Falls reservoir. However, we believe that it is not the most feasible of the reservoir clearing scenarios presented by Nalcor.

Rationale:

The current Annual allowable Cut in FMD 19a of 200 000 m³ has not been utilized for the previous two, five year planning periods. The full clearing option would create an overabundance of timber that would not be utilized under current conditions. An EOI has been released for the commercial development of the timber resource and the establishment of a timber processing industry in central Labrador. It should also be noted that the abundance or availability of timber has not been a limiting factor for forest industry development in the past.

(No. 6)

Recommendation 4.6 – Preparation approach for Gull Island reservoir

The Panel recommends that, if the Project is approved, the reservoir preparation approach for the Gull Island reservoir be finalized and approved by the provincial Department of Natural Resources at the time of the sanction decision for Gull Island. The approach should take into account lessons learned from the preparation of the Muskrat Falls reservoir and should make all reasonable effort to increase harvested volumes above those currently projected by Nalcor under its 'partial clearing' option for the Gull Island reservoir.

Response:

The Government of Newfoundland and Labrador accepts this recommendation.

Rationale:

The Department of Natural Resources functions under an adaptive management process, which will include accounting for lessons learned from the preparation of the Muskrat Falls reservoir, as part of ecosystem based forest management.

(No. 7)

Recommendation 4.7 – Utilization of Merchantable Timber

The Panel recommends that, if the Project is approved, Nalcor be required to ensure utilization of both the harvested timber from reservoir preparation and the merchantable wood taken from the reservoir as part of its 'trash and debris' removal program after impoundment. Nalcor would retain the right to determine how this would be achieved, but should work with relevant Provincial Government departments and third party commercial interests to identify options.

First Draft - November 8, 2011

Response:

The Government of Newfoundland and Labrador accepts this recommendation.

Rationale:

The Department of Natural Resources has been working with Nalcor and will continue to work with Nalcor to help identify possible third party commercial interests.

(No. 8)

Recommendation 5.1 – Use of best available technology

The Panel recommends that, if the Project is approved, Nalcor be required to implement its mitigation commitments to minimize air pollution, noise and greenhouse gas emissions resulting from the Project. In addition, Nalcor should be required to use best available technology for any new construction and harvesting equipment purchased for the Project. This means that any new equipment purchased after Project approval should be required to meet the highest current emissions standards for such equipment, even if such standards are above current regulatory requirements.

Response:

The Government of Newfoundland and Labrador accepts the intent of this recommendation for Nalcor to implement mitigation commitments and use best available technology to operate as efficiently as possible and routinely replace equipment. Emissions from new and well maintained heavy equipment are expected to meet all applicable standards and regulations.

Rationale:

Given: a) that this project may take about 7 years to complete; and b) typically large construction firms replace equipment every 5 to 7 years, it is most likely that the equipment will have the best available efficiency/pollution control technology incorporated. Generally, excavators, bull dozers and loaders are replaced by large companies every 5 to 6 years, and trucks replaced every 7 or 8 years. At these points, this equipment is returned to the manufacturer for refurbishment and then resold to small construction companies.

New equipment is manufactured to the latest US EPA emission standard. Also, as the equipment will be spread out over the site it is highly unlikely the aggregate emissions would violate the provincial ambient standards. The Province doesn't have emission regulations for individual pieces of heavy equipment.

It is unlikely that any local large company will have enough equipment to fulfill the contract, so they will rely on a lease with a manufacturer for new equipment for the duration of the project.

A further restriction that will prevent small and/or inexperienced construction companies with dated equipment from bidding is that most likely only unionized companies may be

First Draft - November 8, 2011

able to bid and these are relatively large companies.

(No. 9)

Recommendation 5.2 – Backing up intermittent renewable energy

The Panel recommends that, if the Project is approved, Nalcor be required to make all reasonable efforts to maximize the potential to utilize power from the Project to back-up wind power and other intermittent renewable sources of electricity. The results of Nalcor's efforts should be reported to the public through its annual report.

Response:

The Government of Newfoundland and Labrador accepts the intent of this recommendation that Nalcor should make reasonable efforts to use power from the Project to back-up wind and other intermittent renewable sources of electricity.

Rationale:

- Government agrees that the Project provides Nalcor with the ability to integrate intermittent renewable energy resources, including the province's wind resources, which are among the best in North America.
- Government agrees Nalcor should report annually on its efforts to facilitate development of wind and other intermittent energy resources.
- The province's 2007 Energy Plan highlighted hydro development, such as Muskrat Falls, as a natural enabler of wind development.

(No. 10)

Recommendation 5.3 – Displacement of high greenhouse gas energy sources

The Panel recommends that, if the Project is approved, Nalcor be required to take all reasonable steps to ensure that power from the Project is used to displace energy from high greenhouse gas emission sources and does not displace demand management, conservation, efficiency, and the generation of power from renewable, low greenhouse gas emission energy sources. The results of Nalcor's efforts should be reported to the public through its annual report.

Response:

The Government of Newfoundland and Labrador accepts the intent of this recommendation and notes that it has been directed at Nalcor. The Provincial Government will cooperate where required with Nalcor to offer advice and expertise on greenhouse gas mitigation and energy efficiency within Newfoundland and Labrador and the jurisdictions that Nalcor may deal with on Project power. The Provincial Government is committed to ensuring the province plays its part in global efforts to reduce greenhouse gas emissions and released a new Climate Change Action Plan in August 2011 in which it reaffirmed its commitment to reduce provincial greenhouse gas emissions (GHG) by 10% below 1990 levels by 2020 and between 75-85% below 2011 levels by 2050. Consistent with these goals, the Provincial Government has committed to decommission the oil-fired thermal generating station at Holyrood when Muskrat Falls

First Draft - November 8, 2011

came on line and thereby displace an estimated 1.2 million tonnes of GHG emissions within the province. Further, the Muskrat Falls Project will support additional GHG reductions in Nova Scotia and other jurisdictions.

Rationale:

N/A

(No. 11)

Recommendation 5.4 – Atmospheric monitoring

The Panel recommends that, if the Project is approved and in addition to its monitoring commitments, Nalcor should carry out the following monitoring programs using methodologies approved by federal and provincial regulators:

- monitor greenhouse gas emissions related to construction;
- monitor greenhouse gas emissions related to operation;
- track the displacement of greenhouse gas emissions in the various markets for Project power and report annually based on transparent methodologies approved by federal and provincial regulators, taking into account relevant issues identified by the Panel; and
- work with appropriate government agencies to ensure that there are active climate change monitoring programs on appropriate rivers in Labrador not affected by the Project, so that there is a better chance to separate Project impacts from climate change impacts based on local weather data collected within the Project area.

Response:

The Government of Newfoundland and Labrador accepts the intent of this recommendation and notes that it has been directed at Nalcor. The Provincial Government will cooperate where required with Nalcor to offer advice and expertise on monitoring greenhouse gas emissions related to the project and the displacement of greenhouse gas emissions in various markets for Project power.

Bullet #4 (by ENVC-WRMD)

This recommendation is directed to Nalcor. The Government of Newfoundland and Labrador accepts the intent of the recommendation, to ensure active climate change monitoring programs are established to separate impacts of the Project from climate change impacts. However, with the existing 12 climate stations and 10 hydrometric stations in Labrador located outside the Project area including one real-time weather station being operated by the Water Resources Management Division (WRMD), the focus of any climate change monitoring network should be within the Project area. WRMD is willing to provide technical assistance to Nalcor in establishing and operating additional real-time weather stations within the Project area.

Rationale:

N/A

First Draft - November 8, 2011

Bullet #4 (by ENVC-WRMD)

To address the impact of climate change on ice dynamics, ice stability, flooding and design parameters, the Water Resources Management Division (WRMD) will require Nalcor to set up an index network of climate stations *throughout the reach of the project area*. The WRMD will review and approve the locations, parameters and number of monitoring stations, along with data management and reporting requirements.

(No. 12)

Recommendation 6.1 – Timing of Reservoir Impoundment

The Panel recommends that, if the Project is approved, Fisheries and Oceans Canada require Nalcor to carry out impoundment of both the Muskrat Falls and Gull Island reservoirs during the period mid-July to the end of September, and to prepare a detailed mitigation plan for approval by Fisheries and Oceans Canada. The mitigation plan should include information on how the effects of dewatering would be monitored, thresholds to trigger further mitigation, and identification of specific adaptive management measures and how they would be applied.

Response:

This recommendation is directed to Fisheries and Oceans Canada (DFO) and Nalcor. The timing of reservoir impoundment from a fish and fish habitat perspective is the mandate of the federal Department of Fisheries and Oceans Canada. The Water Resources Management Division (WRMD) will cooperate with agencies and Nalcor on the timing of reservoir impoundment and in establishing environmental flow standards, as per recommendation 6.2, from a hydrologic perspective.

Rationale:

The Water Resources Management Division (WRMD) believe that from a hydrologic perspective, the timing of the reservoir impoundment could take place any time of the year and that the environmental flow standards (recommendation 6.2) could be used to develop appropriate mitigation plans.

(No. 13)

Recommendation 6.2 – Environmental Flow Standards

The Panel recommends that, if the Project is approved, the provincial Department of Environment and Conservation, in consultation with Fisheries and Oceans Canada, Nalcor, Churchill Falls (Labrador) Corporation Limited, and Aboriginal groups and stakeholders, develop environmental flow standards for the lower Churchill River with respect to flows (magnitude, frequency, duration, timing, and rate of change) designed to promote the maintenance of ecological functions and the conservation of riparian and fish habitat. The environmental flow standards should be incorporated by regulation under appropriate provincial legislation and acknowledged in the Water Management Agreement. The Panel further suggests that the Department of Environment and Conservation consider developing environmental flow standards for the upper Churchill River, recognizing the importance of addressing the entire watershed as an integrated

First Draft - November 8, 2011

system.

Response:

The Government of Newfoundland and Labrador accepts the recommendation, to develop environmental flow standards in consultation with Fisheries and Oceans Canada and others for the Lower Churchill River to promote ecologic functions and conserve riparian and fish habitat. The Water Resources Management Division will review the flow standards from a hydrologic perspective.

Such standards will implicitly recognize existing water rights and flow requirements under the relevant sections of the *Electrical Power Control Act, 1994*, and the *Energy Corporation of Newfoundland and Labrador Water Rights Act*.

The Water Resources Management Division believes that environment flow standards developed for the Lower Churchill River will be adequate to achieve the desired effects on the project area.

Rationale:

The Lower Churchill River Project involves the construction of two run of river hydro sites. During construction and initial filling of the reservoir there is a need to ensure that environmental flows are acceptable to maintain ecologic functions and fish habitat. During the operation phase, run of river projects have very little active storage available and the regulation of flows during this stage is minimal. Since the Upper Churchill River facility has been operating for over 40 years and because the Lower Churchill River Project are run of river projects, the Water Resources Management Division believe that there would be minimal benefit, if any, in developing environmental flow standards for the Upper Churchill facility.

(No. 14)

Recommendation 6.3 – Erosion and Sedimentation Prevention

The Panel recommends that, if the Project is approved, Nalcor be required to prepare an erosion and sedimentation prevention strategy including the use of 15-metre vegetated buffer areas during reservoir preparation, best practices at all construction and cleared areas, and specified adaptive management measures to be applied should these mitigation measures fail.

Response:

This recommendation is directed to Nalcor. The Government of Newfoundland and Labrador agrees with the intent of this recommendation and through the Department of Environment and Conservation will require the proponent to submit an Environmental Protection Plan (EPP) which will outline the proposed erosion and sedimentation prevention strategies. The EPP will include the use of 15-metre vegetated buffer areas during reservoir preparation, best practices at all construction and cleared areas, and specified adaptive management measures to be applied should these mitigation measures fail as recommended by the Panel.

First Draft - November 8, 2011

Rationale:

The Environmental Protection Plans (EPP) will be used to identify the proponents proposed plan to prevent erosion and sedimentation. However, it is through the issuing of permits and implementation of comprehensive monitoring that the Water Resources Management Division will ensure that the necessary controls are in place, how effective the controls are, identify when adaptive strategies are necessary and approve them, and adjust the monitoring programs accordingly.

Implementation of approved erosion and sedimentation prevention strategies will occur through the Water Resources Management Division (WRMD) permitting requirements under Section 48 of the *Water Resources Act* and from a comprehensive monitoring program developed for the Lower Churchill River, which will include Real Time Water Monitoring Network, water sampling as needed and frequent site inspections.

(No. 15)

Recommendation 6.4 – Mitigating Entrainment Effects

The Panel recommends that, if the Project is approved, Fisheries and Oceans Canada require Nalcor to take the following steps before receiving a Section 35(2) authorization with respect to potential entrainment losses: (a) carry out further baseline sampling at Gull Island to verify both juvenile and adult fish movements in this area; and (b) prepare a mitigation and adaptive management strategy that establishes thresholds for further action, and identifies what adaptive measures would be taken when, and for what species. The strategy should also address compensation measures should it become apparent that high losses of a specific species are inevitable.

Response:

The Government of Newfoundland and Labrador notes this recommendation has been directed to Fisheries and Oceans Canada.

Rationale:

The Government of Newfoundland and Labrador accepts the intent of this recommendation and will work with Fisheries and Oceans Canada on any further sampling required. Enhanced data will provide increased knowledge and information to be used in the development of threshold values required in developing an adaptive management strategy.

(No. 16)

Recommendation 6.5 – Pilot study for methyl mercury mitigation through soil removal

The Panel recommends that Natural Resources Canada, in consultation with Nalcor and, if possible, other hydroelectricity developers in Canada, carry out a pilot study to determine (a) the technical, economic and environmental feasibility of mitigating the

First Draft - November 8, 2011

production of methyl mercury in reservoirs by removing vegetation and soils in the drawdown zone, and (b) the effectiveness of this mitigation measure. The pilot study should take place in a location where the relevant parameters can be effectively controlled (i.e. not in the Lower Churchill watershed) and every effort should be made to complete the pilot before sanction decisions are made for Gull Island. If the results of the pilot study are positive, Nalcor should undertake to employ this mitigation measure in Gull Island to the extent possible and monitor the results.

Response:

This recommendation is directed to Natural Resources Canada and Nalcor. Large scale pilot projects involving the effectiveness of soil removal in reducing methylmercury levels, its uptake and retention in the aquatic ecosystem would be a very challenging and complex project. Any benefits of methylmercury reduction through the removal of soils may be offset by significant increases in sedimentation and erosion of the reservoir bed during the early phases of the reservoir filling and operation.

The WRMD questions the environmental benefits and feasibility of implementing this recommendation, especially for soil removal component.

Rationale:

The Water Resources Management Division (WRMD) questions the environmental benefits and feasibility of implementing a large scale pilot project on removal of soils as a mitigation strategy to lower methylmercury levels in the aquatic ecosystem. The uptake of methylmercury and transfer through the food chain is a poorly understood process. The rationale of undertaking a pilot project and assuming that the results are transferable to the Churchill River system is questionable.

WRMD believe that the soil and vegetation root mat typically left in reservoirs are beneficial in reducing the sedimentation and erosion impacts when a reservoir is created. Removal of the soil and vegetation mat may have significant negative impacts on water quality in the project area which may offset any benefits in their removal.

(No. 17)

Recommendation 6.6 – Fish habitat compensation

The Panel recommends that, if the Project is approved, Fisheries and Oceans Canada require Nalcor to:

- prepare a detailed fish habitat compensation plan in consultation with stakeholders and Aboriginal groups that addresses to the extent possible the likely interactions between species and life stages, including predator-prey relationships and also the potential to replace tributary-type habitats;
- prepare a habitat monitoring plan including thresholds for further action and identified adaptive management measures;
- implement the proposed plan, documenting the process;
- evaluate the extent to which new, stable habitat has been created, its use and

First Draft - November 8, 2011

- productivity; and
- apply any lessons learned from implementing the Muskrat Falls compensation plan to the proposed Gull Island compensation works.

If, after all feasible adaptive management measures have been applied, Fisheries and Oceans Canada determines that there has been a significant shortfall in the amount of habitat successfully created and maintained, compared to the original proposal, Nalcor should be required to compensate by carrying out habitat compensation works in other watersheds in Labrador. Preference should be given to remediation and enhancement in areas adversely affected by the Churchill Falls project.

Response:

This recommendation is directed to Fisheries and Ocean Canada (DFO) and Nalcor. Fish habitat compensation will be addressed by federal Fisheries and Oceans Canada as per its mandate. The Water Resources Management Division (WRMD) will with Fisheries and Oceans Canada and Nalcor in the review and issuing of permits under Section 48 of the *Water Resources Act*.

Rationale:

The Water Resources Management Division (WRMD) currently oversees the operation of a Real Time Water Monitoring Network at 6 locations in the Project area. WRMD will also be responsible for issuing permits under Section 48 of the *Water Resources Act* for any habitat compensation programs agreed upon between Nalcor and DFO.

(No. 18)

Recommendation 6.7 – Assessment of downstream effects

The Panel recommends that, if the Project is approved and before Nalcor is permitted to begin impoundment, Fisheries and Oceans Canada require Nalcor to carry out a comprehensive assessment of downstream effects 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; and
- identification of any additional mitigation or adaptive management measures.

The results of this assessment should be reviewed by Fisheries and Oceans Canada and by an independent third-party expert or experts, and the revised predictions and review comments discussed at a forum to include participation by Aboriginal groups and stakeholders, in order to provide advice to Fisheries and Oceans Canada on next steps.

Response:

First Draft - November 8, 2011

Bullets 2, 3 & 4: This recommendation is directed to Fisheries and Oceans Canada (DFO) and Nalcor. The Water Resources Management Division will work with the federal Department of Fisheries and Oceans to review the assessment of downstream effects. The Water Resources Management Division (WRMD) will be ensuring the establishment and operation of Real Time Water Monitoring Stations. This network may be useful in measuring water quality parameters such as temperature and sediment loadings. The WRMD will cooperate with other agencies and Nalcor by making available any data collected through the Real Time Water Monitoring Network.

Rationale:

The Water Resources Management (WRMD) currently oversees the operation of real time water monitoring stations located along the Churchill River from Metchin River down to Lake Melville. Any new real time stations downstream of the Project may be included in the Lower Churchill Real Time Water Monitoring Network.

(No. 19)

Recommendation 6.8 – Published analysis of downstream effects over time

The Panel recommends that, if the Project is approved, Nalcor contribute to the overall knowledge about the effects of hydroelectric projects in northern regions by ensuring that a longitudinal analysis of the effects of the Project on the downstream environment (Goose Bay and Lake Melville) over an appropriate time period, including both mercury transport and bioaccumulation and other ecological parameters, is published in a peer-reviewed journal or the equivalent. The Panel suggests that Nalcor consider collaborating with an appropriate independent research organization to carry out this recommendation by providing knowledge, data and financial resources.

Response:

This recommendation is directed at Nalcor. The Water Resources Management Division (WRMD) will cooperate with Nalcor, Nunatsiavut Government and other agencies by making available any data collected through the Real Time Water Monitoring Network.

Rationale:

The Water Resources Management (WRMD) currently has real time water monitoring stations located along the Churchill River from Metchin River down to Lake Melville. This data is currently available to the public on the Department of Environment and Conservation's website.

(No. 20)

Recommendation 6.9 – Development of the Aquatic monitoring program

The Panel recommends that, if the Project is approved, Fisheries and Oceans Canada require Nalcor to organize a workshop with third-party facilitation and invited participation by Aboriginal groups, stakeholder organizations, knowledgeable local people, and independent experts from academic or equivalent organizations to review and advise on a detailed draft monitoring plan.

First Draft - November 8, 2011

Response:

This recommendation is directed to Fisheries and Oceans Canada and Nalcor. The Water Resources Management Division (WRMD) will cooperate with other agencies and Nalcor by making available any data collected through the Real Time Water Monitoring Network.

The Water Resources Management Division (WRMD) accept the intent of this recommendation and will play a role in reviewing and providing technical feedback for any proposed monitoring program and workshop.

Rationale:

WRMD currently oversees the operation and maintenance of the Lower Churchill River real time water monitoring stations located along the Churchill River from Metchin River down to Lake Melville. The data collected from this network will provide pertinent information that can and likely will be used to determine the aquatic monitoring programs.

(No. 21)

Recommendation 7.1 – Wetland compensation plan

The Panel recommends that, if the Project is approved, Nalcor be required to develop a detailed wetland compensation plan in consultation with Environment Canada, the provincial Department of Environment and Conservation, Aboriginal groups and appropriate stakeholders. The plan should set appropriate goals for the re-establishment of wetlands taking into account the purpose served by each type of wetland in the context of the surrounding ecosystem.

Response:

The Government of Newfoundland and Labrador accepts this recommendation. The Department of Environment and Conservation will work with Environment Canada, Aboriginal groups and appropriate stakeholders to advise Nalcor on the development and implementation of a detailed wetland compensation plan in accordance with the *Federal Policy on Wetland Conservation*.

Rationale:

The Government of Newfoundland and Labrador does not have a wetland conservation policy at this time. As such, the Department of Environment and Conservation recommends that the *Federal Policy on Wetland Conservation* goals of No Net Loss of wetland function be considered in wetland areas affected by the Project.

(No. 22)

Recommendation 7.2 – Riparian Compensation Plan

The Panel recommends that, if the Project is approved, Fisheries and Oceans Canada require Nalcor to develop a detailed riparian habitat compensation plan in consultation

First Draft - November 8, 2011

with Fisheries and Oceans Canada, the provincial Department of Environment and Conservation, Aboriginal groups and appropriate stakeholders, that looks closely at water levels and variations in the levels needed to ensure healthy and resilient riparian habitat and coordinates with the environmental flow standards referenced in Recommendation 6.2.

Response:

The Government of Newfoundland and Labrador accepts this recommendation. The Department of Environment and Conservation will work with Fisheries and Oceans Canada, Aboriginal groups and appropriate stakeholders to advise Nalcor on the development and implementation of a detailed riparian compensation plan.

Rationale:

The plan should take into account species of conservation concern that have been identified in the Project footprint and their habitat. The plants, species at risk, and amphibians using the wetland habitat should be considered in plan development.

(No. 23)

Recommendation 7.3 – Recovery strategies for endangered species

The Panel recommends that, if the Project is approved, federal and provincial governments make all reasonable efforts to ensure that recovery strategies are in place and critical habitat is identified for each listed species found in the assessment area before a final decision is made about the effects of the Project on those species. Compliance with federal and provincial species protection legislation should be seen as a minimum standard. In fairness to Nalcor, this work should be given the priority needed to ensure that the Project decision is not unduly delayed. A final Project decision should only be made once government decision makers are satisfied that the recovery of listed species would not be compromised by the Project. Where Environment Canada is relying on provincial efforts to fulfill its obligations under the safety net provisions of the federal Species at Risk Act, before a federal decision is made about the Project it should satisfy itself that the provincial efforts for any species at risk are sufficient for its recovery and will not be compromised by the Project.

Response:

The Government of Newfoundland and Labrador accepts the intent of this recommendation but does not accept the proposed timelines. Recovery Strategies that contain full or partial identification of critical habitat may not necessarily be posted for all *Endangered Species Act* listed species within the project footprint prior to project approval.

Recovery document development and critical habitat identification is a complex process which, under provincial legislation, requires the formation of a recovery team. This ensures participation of numerous stakeholders including provincial, federal and Aboriginal groups, in addition to fulfilling legislated consultation processes and timelines. Under provincial legislation, critical habitat is identified where appropriate.

First Draft - November 8, 2011

The Wildlife Division is available to review project related activities to facilitate Nalcor's understanding of restrictions and prohibitions under the provincial *Endangered Species Act* and the *Wildlife Act* and, to the extent possible, advise on mitigation measures for any activities which could compromise the recovery of species based on current knowledge at the time.

Rationale:

The Government of Newfoundland and Labrador makes all reasonable efforts to ensure that Recovery Plans for currently listed species are completed and that critical and recovery habitat is identified where appropriate in accordance with legislated processes.

Section 23 of the *Endangered Species Act* requires that critical and recovery habitat be identified, where appropriate, for all species listed as Threatened or Endangered and requiring a Recovery Plan.

The province retains lead jurisdiction for non federal terrestrial species, however the Minister of the Environment could intervene (S. 34 and 61, *Species at Risk Act*) if the laws of the province do not effectively protect species at risk and their habitat.

Provincially:

Caribou: A recovery document is in place and is currently being updated to be released in 2011-2012. Critical habitat is being identified but is not yet complete.

Olive-sided Flycatcher: A recovery document will be drafted later this year. Critical habitat has not been examined at this time as more information needs to be collected before critical habitat can be identified.

Common Nighthawk: A recovery plan has been drafted. Critical habitat has not yet been identified as further study is needed before it can be determine whether it is appropriate or not to protect habitat.

Rusty Blackbird: A management plan has been drafted. Critical habitat has not been identified and may not be required as this is a vulnerable species. Further study is needed.

The Government of Newfoundland and Labrador retains jurisdiction and management authority for species that are not migratory birds or aquatic species.

(No. 24)

Recommendation 7.4 – Compliance with species at risk legislation

The Panel recommends that, if the Project is approved, Nalcor should work with federal and provincial departments responsible for species at risk legislation to ensure all Project-related activities comply with restrictions and prohibitions against harassment,

First Draft - November 8, 2011

disturbance, injuring or killing of listed species or destroying and disturbing their residence.

Response:

The Government of Newfoundland and Labrador accepts this recommendation. The Wildlife Division is available to review project related activities to facilitate Nalcor's understanding of restrictions and prohibitions under the provincial *Endangered Species Act* and the *Wildlife Act*. Nalcor should then conduct activities to be in compliance with these Acts.

Rationale:

The Minister of the Department of Environment and Conservation is the Minister responsible for all currently listed species under the provincial *Endangered Species Act* affected by the Project, and has management authority for the province's biodiversity and wildlife resources.

(No. 25)

Recommendations 7.5 – Road construction and decommissioning

The Panel recommends that, if the Project is approved, the provincial Department of Natural Resources require Nalcor to minimize road construction outside the reservoirs, by locating new roads inside the impoundment area as much as possible. Any new roads proposed by Nalcor to be located outside the impoundment areas should be carefully reviewed by the Forestry Branch of the Department of Natural Resources and only approved if there is no reasonable alternative. In order to ensure that conservation objectives are met, all temporary roads outside the reservoir should be decommissioned as soon as possible to the satisfaction of the provincial Department of Environment and Conservation.

Response:

The Government of Newfoundland and Labrador accepts the panel recommendation with respect to Road construction and decommissioning.

Rationale:

The department of Natural Resources has been granted unfettered access into the footprint area to monitor activities such as road construction. The majority of roads proposed by Nalcor are located within the area on inundation.

(No. 26)

Recommendation 7.6 – Recovery of the Red Wine Mountain caribou herd

The Panel recommends that, if the Project is approved, the provincial Department of Environment and Conservation ensure that adequate resources are available so that all reasonable efforts to ensure the recovery of the Red Wine Mountain caribou herd are taken. In addition, the Department should require Nalcor to play an enhanced role in the recovery process for the Red Wine Mountain caribou herd by putting resources into the

First Draft - November 8, 2011

process for research and recovery efforts and to participate actively in the overall effort to ensure the recovery of the caribou herd.

Response:

The Government of Newfoundland and Labrador accepts this recommendation. The Red Wine caribou herd is a Woodland caribou which is listed as Threatened under the provincial *Endangered Species Act* and the federal *Species at Risk Act*. The Province, however, retains jurisdiction and management authority.

In 2004, Newfoundland and Labrador released its first recovery document under the *Endangered Species Act* for this species entitled "Recovery strategy for three Woodland caribou herds (*Rangifer tarandus caribou*; *Boreal population*) in Labrador." The document was prepared by the Labrador Woodland Caribou Recovery Team which Nalcor is a member of and provided advice on actions needed to recover the species in Labrador. This recovery document is currently being updated with new information, activities complete, critical habitat and new actions required based on the new information that has been gathered over the past seven years. The updated recovery plan is scheduled to be released in early 2012.

Rationale:

Labrador woodland caribou are listed as Threatened under the provincial *Endangered Species Act* and includes the Red Wine Mountain caribou herd. Woodland caribou are listed as threatened under the federal *Species at Risk Act*. The species consists of numerous isolated herds across northern Canada each of which is under the jurisdiction of the province or territory within which they reside and for which the relevant province maintains appropriate scientific expertise.

(No. 27)

Recommendation 7.7 – Management of the George River caribou herd

The Panel recommends that, if the Project is approved, the provinces of Quebec and Newfoundland and Labrador, Environment Canada and all interested Aboriginal communities initiate a dedicated range-wide joint management program for the George River caribou herd, and through this program cooperatively carry out a comprehensive cumulative effects assessment of the impact of human activities on the herd to be updated periodically as required.

Response:

The Government of Newfoundland and Labrador accepts the intent of this recommendation. It is the intent of the Government of Newfoundland and Labrador, as per the Labrador Caribou Management Initiative, to cooperatively develop a management plan for the George River caribou that ensures the involvement of the Quebec Government and aboriginal groups. The structure and function of this process is currently being established.

Rationale:

First Draft - November 8, 2011

The George River caribou herd migrates between the province of Newfoundland and Labrador and the province of Quebec, with both provinces responsible for management. The Government of Newfoundland and Labrador initiated a three-year Labrador Caribou Management Initiative in 2011/12. This initiative involves enhanced data collection of the George River caribou herd to better understand the factors affecting the caribou population. Although this work will attempt to assess the impacts of human activities, the lack of baseline data makes a complete and comprehensive assessment of human activities on the herd difficult. For example, it is known that the George River caribou herd historically used areas that were flooded by the development of Churchill Falls. However, the impact of this development on the population is difficult to assess since movement data of the herd prior to this development was unknown.

(No. 28)

Recommendation 7.8 – Effect of reservoir preparation activities on migratory birds

The Panel recommends that, if the Project is approved, Nalcor and Environment Canada negotiate an agreement prior to reservoir preparation regarding whether and how clearing could proceed between May and July without violating the Migratory Birds Convention Act. To initiate this process, Nalcor should be required to submit a plan describing how it would carry out clearing activities during this period in compliance with the Migratory Birds Convention Act.

Response:

The Government of Newfoundland and Labrador accepts the intent of this recommendation and notes that it has been directed appropriately to the federal government. The *Migratory Birds Convention Act* is under the purview of the Government of Canada and particularly Environment Canada.

Rationale:

The Government of Newfoundland and Labrador is responsible for managing the province's biodiversity and wildlife resources which includes bird species and as such should be afforded the opportunity to review any proposed activities that may impact species covered under provincial legislation.

Nalcor will remain subject to the prohibitions set in provincial legislation; the *Wildlife Act* and the *Endangered Species Act*.

Regulations under the *Wildlife Act* prohibit the harassment of wildlife, including any wild bird and the eggs of those birds.

The *Endangered Species Act* (Section 16) prohibits disturbance, harassment, injury, or killing of a species designated as threatened, endangered or extirpated.

(No. 29)

Recommendation 7.9 –Vegetation control

First Draft - November 8, 2011

The Panel recommends that, if the Project is approved, Nalcor be required to restrict the use of chemical herbicides to areas where alternative vegetation control is not reasonably possible. Approval of the use of herbicides should only be granted after Nalcor has submitted an overall vegetation control plan to the provincial Department of Environment and Conservation, demonstrating that all alternatives have been adequately explored and the use of non-chemical approaches maximized.

Response:

The Government of Newfoundland and Labrador accepts the intent that approval of the use of herbicides should only be granted after Nalcor has submitted an overall vegetation control plan and it is fully in keeping with the practices of Integrated Vegetation Management.

Rationale:

The Government of Newfoundland and Labrador accepts this recommendation in full. No legislative change would be needed to comply with the recommendation. It is similar to current departmental practices. A proponent for a vegetation management program must explore all options available to the project. The types of vegetation, site location, and choices of possible vegetation control options (product to be used, broadcast foliar application versus cut/stump, basal bark or directed foliar treatments, for example) must be determined before the proponent applies for a pesticide operator licence. Maps must be provided which show the topography and other features of the proposed vegetation control site, including water bodies and other sensitive areas. With all of this preparatory work, the proponent should also be prepared to indicate how other methods of vegetation control can achieve acceptable results, if and when they are available.

(No. 30)

Recommendation 7.10 – Monitoring, follow-up and adaptive management for the terrestrial environment

The Panel recommends that, if the Project is approved and in addition to its monitoring commitments listed in Chapter 7, Terrestrial Environment, Nalcor should carry out the following monitoring programs:

- monitor the effectiveness of riparian and wetland habitat compensation work, including the effect on wetland sparrows;
- monitor the response of the Red Wine Mountain caribou herd including any population changes through the construction phase and in the early part of the operation phase;
- monitor wolf predation of caribou, particularly the Red Wine Mountain herd;
- monitor interactions of the George River caribou herd with Project activities and facilities and identify any impacts;
- monitor ashkui formation in the Project area;
- monitor direct and indirect impacts on waterfowl, such as waterfowl adjustment to changes in riparian habitat, and changes in the location and formation of ashkui;
- confirm the presence of and monitor the impact of the Project on salamanders and

First Draft - November 8, 2011

- spring peepers;
- develop a detailed mitigation and monitoring plan for all listed species for approval by the provincial Department of Environment and Conservation;
- confirm the presence outside the flood zone of the eight plant species identified by Nalcor as unique to the river valley plus the two additional species listed by the Department of Environment and Conservation (marsh horsetail and hidden fruit bladderwort) and develop a detailed mitigation plan for these plant species for approval by the Department;
- monitor the impact of the Project on furbearers, small game, small mammals, and black bears; and
- collaborate with the Department of Environment and Conservation to develop an appropriate approach to monitor pine marten in areas affected by the Project where there is no trapping activity.

Response:

The Government of Newfoundland and Labrador accepts the intent of this recommendation. The Department of Environment and Conservation will continue to advise monitoring programs regarding issues under provincial jurisdiction. The Department of Environment and Conservation will work cooperatively with the federal government and Aboriginal groups to advise Nalcor on the requirements of a scientifically defensible monitoring program.

Rationale:

The Department of Environment and Conservation is mandated to manage and conserve the biodiversity and wildlife resources, including species at risk, under provincial authority. The Department of Environment and Conservation recommended to the Panel that follow-up including monitoring and adaptive management were necessary for these species.

(No. 31)

Recommendation 8.1 – Trapping compensation program

The Panel recommends that, if the Project is approved, Nalcor be required to establish a compensation program for all bona fide trappers along the lower Churchill River, without requiring proof of ten years' use as an entry point. Instead, compensation should be commensurate with the total extent of trapping activity during the previous ten years, as shown by the recorded income attributable to the Project area. Compensation should be awarded within six months after an individual trapper has established eligibility.

Response:

The Government of Newfoundland and Labrador accepts the intent of this recommendation.

Rationale:

The Government of Newfoundland and Labrador accepts that some trapping areas within the Project footprint may be lost if the Project proceeds. Nalcor Energy has committed to

First Draft - November 8, 2011

mitigating the effects of the Project on trapping activities by compensating active trappers for losses of trapping income, property or equipments attributed to the Project. The Government of Newfoundland and Labrador accepts the Panel's conclusion that Nalcor Energy's proposed trapping compensation program, which required proof of ten years of continuous use, may have set the bar too high because external factors may not have allowed trappers to operate consistently each year. The provincial departments of Environment and Conservation, and Labrador and Aboriginal Affairs will assist Nalcor Energy, if necessary, to develop a trapping compensation program for eligible trappers consistent with Panel recommendation 8.1.

(No. 32)

Recommendation 8.2 – Mud Lake ice bridge mitigation

The Panel recommends that, if the Project is approved, Nalcor, the Government of Newfoundland and Labrador and the Mud Lake Improvement Committee negotiate an agreement to address how any future adverse changes to the ice bridge that would lengthen the existing period of time when residents are unable to cross the river by boat or snowmobile would be assessed and mitigated. Alternative transportation options should be provided if travel across the river is prevented during the freeze-up or break-up for periods in excess of two weeks. The selected solution should adequately meet the residents' needs for everyday and emergency travel and should respect the character of the community. Road access should not be imposed on the community as a solution to address ice bridge changes without its consent. The primary onus to cover the costs of this mitigation should be placed on Nalcor. The agreement should also address the role of the Province in mitigating any cumulative effects caused by climate change.

Response:

The Government of Newfoundland and Labrador accepts the intent of this recommendation. The Water Resources Management Division will review Nalcor's ice monitoring and climate change reports which may be used to assess any changes to the period of ice road use resulting from the project.

Nalcor shall only be required to provide alternative transportation if travel is adversely affected during freeze-up and other situations as a result of changes directly related to the project.

Rationale:

The Water Resources Management Division (WRMD) understands that the monitoring of ice on the Churchill River and assessment of changes in Mud Lake ice bridge resulting from the project and climate change will be undertaken by Nalcor. During the panel hearings WRMD indicated that a climate change network is needed and that Nalcor undertake an ice monitoring program for verification of ice models, assessment of ice progression and stability in order to determine the impacts of the project on the Mud Lake ice bridge. WRMD's role will be to review Nalcor's reporting, as it relates to an ice bridge.

First Draft - November 8, 2011

(No. 33)

Recommendation 8.3 – Navigation during impoundment

The Panel recommends that, if the Project is approved, Nalcor be required to develop a mitigation plan in consultation with the Mud Lake Improvement Committee to address temporary transportation difficulties during reservoir impoundment periods. If transportation is impeded, Nalcor should provide and pay for alternative transportation that minimizes inconvenience to the residents.

Response:

This recommendation has been directed to Nalcor. The Government of Newfoundland and Labrador accepts the intent of this recommendation and agrees that Nalcor should address transportation difficulties if impeded during reservoir impoundment periods and provide alternative transportation to minimize any inconvenience to residents. Nalcor should address this matter in consultation with appropriate authorities including the Mud Lake Improvement Committee.

Rationale:

This recommendation has been directed to Nalcor for implementation should reservoir impoundment impede transportation. The transportation alternatives can be determined by Nalcor in consultation with appropriate Mud Lake residents, committees, Aboriginal groups and responsible government agencies.

(No. 34)

Recommendation 8.4 – Lower Churchill navigation mitigation and monitoring plan

The Panel recommends that, if the Project is approved, Transport Canada require Nalcor to develop a mitigation and monitoring plan for each reservoir, in consultation with river users, to address navigation issues on the river, including both reservoirs and the downstream portion of the main stem. The plan would address (a) navigation issues during the construction and impoundment periods, (b) provision of boat launches and portages, (c) identification of areas that need to be cleared before impoundment to create safe shoreline access areas for small boats, (d) management of the stick-up zones, including how and when Nalcor would manually remove trees left standing three years after impoundment, (e) management of trash and debris in the reservoirs, (f) charts to show navigational hazards, signage and information, and (g) monitoring and specific adaptive management measures to address any navigational problems downstream from Muskrat Falls.

Response:

This recommendation is directed to Transport Canada and Nalcor. The Government of Newfoundland and Labrador agrees with the intent of the recommendation. Provincial government departments will work with Transport Canada and Nalcor to see that navigation issues for river users are addressed.

Rationale:

First Draft - November 8, 2011

The Department of Environment and Conservation agrees with the intent of the recommendation that the impact of construction on other legitimate uses of the river be minimized.

(No. 35)

Recommendation 8.5 – Allowing local forestry operators to clear additional areas

The Panel recommends that, if the Project is approved, the provincial Department of Natural Resources require Nalcor to allow local forestry operators to clear timber from areas not otherwise scheduled to be cleared, provided they can demonstrate a safe approach. Nalcor should be required to pay the stumpage fees for the forestry operators salvaging the extra timber.

Response:

The Government of Newfoundland and Labrador accepts the intent of the recommendation to allow local forestry operators to clear additional areas, if recommendation 4.5 is accepted by Nalcor.

Rationale:

A full clearing option will result in an amount of merchantable timber that exceeds the current demand by local industry. There will be a surplus of timber already cut and available to local operators at no cost to them.

(No. 36)

Recommendation 9.1 – Noise and dust management

The Panel recommends that, if the Project is approved, and to avoid disturbance of persons carrying out traditional land and resource use activities, Nalcor be required to monitor and manage construction traffic and borrow pit activities to minimize dust problems, noise and sleeping disturbance for occupants of cabins and camps along the roads.

Response:

(Add OHS here)

Rationale:

(No. 37)

Recommendation 9.2 – Relocation of Canada yew

The Panel recommends that, if the Project is approved, Nalcor be required to collaborate with Innu Elders on where and how to relocate Canada yew plants, conduct regular field visits with Elders for assessment, and employ any adaptive management procedures required to maintain a stable population of the plant.

Response:

First Draft - November 8, 2011

The Government of Newfoundland and Labrador accepts the intent of this recommendation as the plant is culturally significant to the Innu people.

Rationale:

Canada yew is not a listed species and therefore is not covered under the NL *Endangered Species Act*. Forests in Newfoundland and Labrador are managed under the NL *Forestry Act*. The Act regulates primarily the harvest of timber, of which Canada yew falls within the definition of timber. Canada yew is not a merchantable timber species in Newfoundland and Labrador.

(No. 38)

Recommendation 9.3 – Community level land and resource use monitoring

The Panel recommends that, if the Project is approved, Nalcor involve all Aboriginal groups in the design and implementation of its proposed community land and resource use monitoring program for the duration of the construction period to ensure that parameters of importance to these groups and Traditional Knowledge are included.

Response:

The Government of Newfoundland and Labrador accepts the intent of this recommendation.

Rationale:

Should the Project be released from environmental assessment (EA), a community land and resource use monitoring program would inform the process used by the Government of Newfoundland and Labrador to review Nalcor Energy's post-EA regulatory approval applications. The Government of Newfoundland and Labrador's current practice is to delegate to project proponents the requirement to take the lead on consultation of potentially affected Aboriginal governments and organizations in advance of or concurrent with submission of proponent permit applications to provincial departments and agencies.

This is the approach taken, for example, for post-EA permitting in the mining industry in western Labrador. Recommendation 9.3 is consistent with that approach and is likely to help ensure that any required post-EA permits are fully and efficiently reviewed for potential impact on Aboriginal governments and organizations.

The Framework Agreement of 1996 for the Innu Nation's land claim negotiations with the Government of Newfoundland and Labrador and the federal government provides, in sub-clause 4.1.6, for the negotiation of "Resource Harvesting Activities." Panel recommendation 9.3 would support those negotiations.

The Department of Labrador and Aboriginal Affairs will provide advice and assistance, if needed, to Nalcor Energy in its implementation of this recommendation.

(No. 39)

First Draft - November 8, 2011

Recommendation 11.1 – Involvement of Aboriginal Groups in the management and protection of historic and archaeological resources.

The Panel recommends that, if the Project is approved, Nalcor, in collaboration with the Provincial Archaeology Office, establish and support a program to involve all three Labrador Aboriginal groups in (a) the documentation and interpretation of known historic and archaeological sites and artifacts and (b) the process to be followed in the case of inadvertent discoveries of previously unknown sites and artifacts during construction, including notification of the three groups. Nalcor should also give consideration to inviting participation by interested Aboriginal communities in Quebec. Nalcor should share with Aboriginal groups the results of its work on the monitoring of historic and archeological resources to be compiled and provided annually to the Provincial Archaeology Office.

Response:

The Government of Newfoundland and Labrador accepts the intent of this recommendation, that aboriginal groups be involved in the management and protection of historic and archaeological resources; however, while this recommendation supports a collaborative approach, the ultimate responsibility for the protection and management of historic and archaeological resources is the legislated mandate of the Provincial Archaeology Office as provided for under the *Historic Resources Act* and Archaeological Investigation Permit Regulations.

Rationale:

Any proposal involving management and protection of archaeological resources must be in compliance with the *Historic Resources Act* and regulations. While archaeological activity is strictly regulated, the decision on the extent of involvement of Aboriginal groups in the archaeology program ultimately rests with Nalcor. The Provincial Archaeology Office supports the recommendation to collaborate with Nalcor on the development of a program to involve Aboriginal groups in the archaeology program, including establishing a process for meaningful sharing of information.

(No. 40)

Recommendation 11.2 – Commemoration initiatives

The Panel recommends that, if the Project is approved, Nalcor work in collaboration with local communities and Aboriginal groups to (a) identify sites, artifacts and intangible elements (including portages, traplines, trails and personal stories) to be documented and commemorated, (b) determine how commemoration should occur and (c) implement specific commemorative initiatives (such as plaques and story boards) at appropriate locations in communities and throughout the river valley. Local heritage organizations could benefit by receiving funding to undertake part of this work and to implement education and interpretation programs.

Response:

The Government of Newfoundland and Labrador accepts the intent of this

First Draft - November 8, 2011

recommendation.

Rationale:

The Government of Newfoundland and Labrador recognizes that inundating the Churchill River valley may lead to the loss or disturbance of historical, archaeological, spiritual and cultural sites and artifacts, as well as more intangible aspects of the river and its cultural values and associations. Therefore, the Government of Newfoundland and Labrador supports the recommendation of the Panel to preserve this cultural heritage by means of commemoration and educational efforts. Educational initiatives could include publications and web-based information pieces; Aboriginal groups and/or heritage organizations can apply for funding through existing government programs to undertake aspects of this type of work

The Framework Agreement of 1996 for the Innu Nation's land claim negotiations with the Government of Newfoundland and Labrador and the federal government provides, in sub-clause 4.1.5, for the negotiation of "Ethnocultural and Archeological Sites and Artifacts." Recommendation 11.2 supports the commitment to negotiate that subject matter.

The provincial departments of Tourism, Culture, and Recreation and Labrador and Aboriginal Affairs will provide information to Nalcor Energy, if necessary, to assist with the implementation of recommendation 11.2.

(No. 41)

Recommendation 11.3 – Naming Project-Related Features

The Panel recommends that, if the Project is approved, the Government of Newfoundland and Labrador develop an approach to the naming of Project-related features in consultation with local communities and Aboriginal groups that recognizes the importance of place names in Aboriginal cultures.

Response:

The Government of Newfoundland and Labrador accepts this recommendation.

Rationale:

The Government of Newfoundland and Labrador is sensitive to the concern raised by Aboriginal governments and organizations with respect to the issue of place names and the potential loss of landscape features and their names due to the Project's impact. The Government of Newfoundland and Labrador confirms the Panel's understanding that the allocation of new toponyms is a provincial responsibility and welcomes the Panel's reminder of the importance of place names in Aboriginal cultures.

The Framework Agreement of 1996 for the Innu Nation's land claim negotiations with the Government of Newfoundland and Labrador and the federal government provides, in sub-clause 4.1.5, for the negotiation of "Ethnocultural and Archeological Sites and Artifacts." Recommendation 11.3 supports the commitment to negotiate that subject

First Draft - November 8, 2011

matter.

The Department of Labrador and Aboriginal Affairs will implement recommendation 11.3 in partnership with the provincial Geographical Names Board.

(No. 42)

Recommendation 12.1 – Early candidate selection and training

The Panel recommends that, if the Project is approved, Nalcor take a more proactive approach to providing early and specific training programs to certain Labrador candidates. This approach could include measures such as early candidate selection, conditional letters of intended employment, and, on-the-job training at other Nalcor operations or with other entities with which Nalcor has influence.

Response:

The Department of Human Resources, Labour and Employment accepts the intent of the Panel's recommendation and notes that this recommendation has been directed to the proponent.

EDU

The Government of Newfoundland and Labrador accepts the intent of this recommendation, to ensure ample time is available for potential employees to be trained for upcoming jobs as well as to ensure the required training is available. The implementation of this recommendation is the responsibility of Nalcor. It is important the Government of Newfoundland and Labrador is prepared to work with Nalcor and other stakeholders to assist with the implementation of training programs related to the project as required.

Rationale:

The Department will continue to work with the proponent and the Department of Education to address the project's workforce requirements through a coordinated approach.

EDU

It is noted the recommendation has been directed to Nalcor. The Government of Newfoundland and Labrador has assisted and will continue to assist with the implementation of training initiatives that will provide Newfoundlanders and Labradorians with the skills required to work on future large-scale development projects in the Province. Identifying training needs as early as possible will ensure individuals have the necessary time to train.

(No. 43)

Recommendation 12.2 – Workplace attachment for apprenticeship graduates

The Panel recommends that, if the Project is approved, Nalcor commit to providing workplace attachment for both first and second year graduates of apprenticeship

First Draft - November 8, 2011

programs to the maximum extent possible.

Response:

The Department of Human Resources, Labour and Employment accepts the intent of the Panel's recommendation and notes that this recommendation has been directed to the proponent.

EDU

The Government of Newfoundland and Labrador accepts the recommendation, to ensure those individuals in the early stages of their apprenticeship are provided the job opportunities to advance. An entry-level completer would have to acquire workplace attachment and register with the Apprenticeship and Certification Division of the Department of Education to become an apprentice. To be considered an apprentice an individual must then sign a Memorandum of Understanding (MOU) with an employer and the Apprenticeship and Certification Division of the Department of Education.

Rationale:

The Department will work with the proponent and the Department of Education to identify appropriate measures and/or policies required to maximize workplace attachment for 1st and 2nd year apprentices.

EDU

It is noted the recommendation has been directed to NALCOR; however, assisting entry-level completers and first and second year apprentices to find workplace attachment has been a long-term commitment of the Government of Newfoundland and Labrador. An apprentice is defined as someone learning their trade on the job, under the supervision and direction of a certified journeyperson, with periods of technical training at a post-secondary institution, or someone working full time in an apprenticeable trade and registered as an apprentice with the Government of Newfoundland and Labrador. It is important to provide employment opportunities for entry-level completers and first and second year apprentices to ensure Newfoundland and Labrador will have a sufficient number of journeypersons to meet the demand of future large-scale development projects.

(No. 44)

Recommendation 12.3 – Training to 'journeyperson' level in community of residence

The Panel recommends that, if the Project is approved, relevant provincial departments commit to explore with Nalcor, other educational entities and agencies and relevant communities in Labrador, how to implement to the extent practical, training to 'journeyperson' level in the community of residence.

Response:

The Government of Newfoundland and Labrador accepts the intent of this recommendation, to ensure journeyperson training is accessible. The Government of Newfoundland and Labrador, NALCOR, and other stakeholders will work together to explore and determine training sites.

First Draft - November 8, 2011

Rationale:

Issues such as infrastructure, accommodations, number of journeypersons in selected trades, equipment, and technology available in each community would have to be carefully evaluated before a training site is chosen. Increasing employment and training opportunities to allow apprentices to achieve journeyperson certification in a timely manner has been a long-term commitment of the Government of Newfoundland and Labrador. Providing apprentices with the necessary training to progress to journeyperson certification would assist in providing Newfoundland and Labrador with a sufficient number of journeypersons to meet the demand of future large-scale development projects.

(No. 45)

Recommendation 12.4 – Address wage subsidy stigma

The Panel recommends that, if the Project is approved, to the extent that wage subsidies might be available and used for new job entrants, Nalcor implement an education and communications program to address and remove the stigma that some might feel is associated with such a practice.

Response:

The Department of Human Resources, Labour and Employment accepts the intent of the Panel's recommendation and notes that this recommendation has been directed to the proponent.

Rationale:

The Department will work with the proponent to raise awareness among job seekers and employers about the availability and benefits of wage subsidies and other employment supports that can help increase labour force attachment among new job entrants.

(No. 46)

Recommendation 12.5 – Preparing for participation in wage economy

The Panel recommends that, if the Project is approved, Nalcor develop and implement, in consultation with Aboriginal groups, an appropriate orientation and information process to assist prospective employees who might have little or no experience of participation in a wage economy. Nalcor should also expand training programs to include, in addition to skills training, training to equip potential Aboriginal employees to deal with various financial, social and cultural challenges as a result of employment in the construction industry. In consultation with Aboriginal groups, Nalcor should also consider providing additional money management programs such as payroll saving schemes.

Response:

The Department of Human Resources, Labour and Employment accepts the intent of the Panel's recommendation and notes that this recommendation has been directed to the proponent.

First Draft - November 8, 2011

Rationale:

The Department will work with the proponent and other relevant departments to help ensure appropriate orientation and information resources are available to assist individuals, including new entrants, prepare for job requirements in a wage economy.

(No. 47)

Recommendation 12.6 – Continuation of Labrador Aboriginal Training Partnership

The Panel recommends that, if the Project is approved, Nalcor support the continuation of the Labrador Aboriginal Training Partnership beyond 2012, including making a financial contribution if required to both enable current participants to complete their training and to meet additional training requirements.

Response:

The Government of Newfoundland and Labrador accepts the intent of this recommendation to support the continuation of the LATP, beyond 2012, enabling current participants to complete their training and to meet additional training requirements. It is realized that Nalcor and the LATP are currently developing a proposal to be submitted to the Federal Government (Human Resources and Skills Development Canada and Aboriginal Affairs and Northern Development Canada) for such an extension.

Rationale:

It is noted the recommendation has been directed to NALCOR. This recommendation would allow the success of the Labrador Aboriginal Training Partnership (LATP) to continue. Labrador is experiencing unsurpassed economic growth that is forecasted to continue and accelerate. The resultant, burgeoning demand for skilled labour is an unprecedented opportunity for Aboriginal workers to meet these labour demands and thereby contribute to the reversal of the unsustainable socioeconomic condition that exists within many Labrador Aboriginal communities. Continuation of the LATP will provide an opportunity to deliver on interventions that will result in the development of a skilled Aboriginal workforce, and additionally, ensure that the resources and expertise of the broad range of agencies needed to support the progress of individuals and their communities is provided.

(No. 48)

Recommendation 12.7 – Employment Outreach to Quebec Aboriginal Communities

The Panel recommends that, if the Project is approved, Nalcor initiate an employment outreach program for interested Aboriginal groups in Quebec; such a program could include among other measures, a specific recruitment program, transportation assistance from Sept-Iles, and measures to address social and cultural issues including any associated language barriers.

Response:

The Government of Newfoundland and Labrador accepts the intent of this recommendation that the employment of Quebec Aboriginals may be undertaken by the

First Draft - November 8, 2011

proponent, so long as it is consistent with other employment obligations of the proponent such as those obligations set out in the Benefits Strategy.

Rationale:

The Government of Newfoundland and Labrador views the employment with respect to the project to be at the discretion of the proponent, since the proponent has the expertise to effectively construct, operate and maintain the project. Naturally, all such employment is subject to requirements resting on the proponent regarding employment on the project such as the Benefits Strategy.

(No. 49)

Recommendation 12.8 – Quantitative targets for goods and services

The Panel recommends that, if the Project is approved, the concept of quantitative objectives or targets be applied to the provision of goods and services, with targets established both for the province as a whole, and for Labrador.

Response:

The Government of Newfoundland and Labrador accepts the intent of this recommendation and will continue to work with Nalcor, other line departments and agencies, and private sector interests through the Supplier Development Program to maximize supplier development opportunities and partnerships for Labrador and the province as a whole.

Rationale:

The Department of Innovation, Trade and Rural Development (INTRD) leads the Supplier Development Program which promotes the growth and development of small and medium-sized enterprises within the province. This program helps position Newfoundland and Labrador firms to supply quality goods and services at competitive costs to public and private sector entities in local, national and international markets.

INTRD collaborates with public sector entities, industry associations and private sector companies to help local firms identify potential buyers for their products and services, navigate and interpret the procurement process, access supply opportunities, and establish mutually beneficial vendor-buyer partnerships.

It is essential that the proponent develop and make available current, reliable and detailed quantitative information related to required goods and services for the Project. The establishment of the Business Opportunities Committee, with a full time Coordinator in Happy Valley-Goose Bay, seems to provide an opportunity to match accurate needs with existing and potential business supply capabilities within Labrador, and the Province. This process will assist the proponent in developing realistic targets based on supply capabilities of Labrador and Island firms and in the development of mechanisms to enhance the supply capacity of firms to reach these targets. INTRD Enhanced Supplier development/diversity Program activities will support workings of the committee.

First Draft - November 8, 2011

(No. 50)

Recommendation 12.9 – Enhanced supplier development program

The Panel recommends that, if the Project is approved, Nalcor enhance its supplier development program by implementing the following measures: (a) establish the Labrador Business Opportunities Committee and appoint the full time Coordinator in Happy Valley-Goose Bay as soon as possible, (b) ensure the Coordinator (a Nalcor employee) has sufficient seniority within the organization to influence relevant procurement decisions and has full access to all procurement information and related decision making, (c) release as soon as possible the list of goods and services required by the Project, with specific indications of time frame, approximate volumes and dollar values or ranges as appropriate, and (d) ensure immediately that all engineering management personnel involved in specifications, bidder prequalification, and procurement are fully aware of Nalcor's commitments towards maximizing benefits in this area and act accordingly.

Response:

The Government of Newfoundland and Labrador accepts the intent of the Panel's recommendation and notes that this recommendation has been directed to the proponent. The Government of Newfoundland and Labrador, through INTRD's Supplier Development Program, will cooperate with Nalcor and relevant line departments to enhance supplier development opportunities and processes for local and provincial firms throughout all stages of development of the Project.

Rationale:

The Department of Innovation, Trade and Rural Development (INTRD) leads the Supplier Development Program which promotes the growth and development of small and medium-sized enterprises within the province. This program helps position Newfoundland and Labrador firms to supply quality goods and services at competitive costs to public and private sector entities in local, national and international markets. INTRD collaborates with public sector entities, industry associations and private sector companies to help local firms identify potential buyers for their products and services, navigate and interpret the procurement process, access supply opportunities, and establish mutually beneficial vendor-buyer partnerships.

The business development opportunities will substantially enhance and diversify local and regional economies, and impact the provincial economy as a whole. A collaborative approach to completing business supply capability studies should help prepare local companies to identify new supplier development opportunities, and to establish explicit procurement strategies, including joint venture relationships between companies, to enhance their capacity to effectively bid on and secure project contracts to supply goods and services during all phases. This assists in the identification of available programming and services to help companies improve or expand their capabilities in areas such as production capacity, certifications, skills enhancement and technology transfer to meet project demands.

First Draft - November 8, 2011

The Labrador Business Opportunities Committee, or similar structure, can coordinate the business capability studies and to ensure that project demands are clearly outlined as to allow local companies to adequately develop supply capacity capabilities to match these requirements. It is important to develop and to identify the mandate and structure of this committee, decision-making processes and accountability procedures, and the membership opportunities for regional and provincial stakeholders. A primary goal should be to develop a current and reliable list of goods and services required by the Project, with specific indications of timing, volumes and dollar values to guide business supply capability analysis. Doing so well in advance of the bidding processes would ensure that companies have an opportunity to determine which opportunities might fit within their core competencies, factoring in expected supply volume, purchasing policies and procedures, required certifications, and terms and conditions for bidding. General information sessions would lead to matchmaking efforts to match potential suppliers to various phases of the project.

INTRD coordinates Supplier Development and Diversity activities across departments and industry with mechanisms to measure outcomes of the activities. Examples are

- Information and Networking Sessions
- Business support networks and cluster
- Business Retention and Expansion services
- Supplier Development Initiative Guide
- Event Reports
- Links to Bidding Opportunities
- Enhanced Manufacturer's Directory
- Women led business funding and services
- Aboriginal supports

(No. 51)

Recommendation 12.10 – Update quantitative targets at time of sanction

The Panel recommends that, if the Project is approved, Nalcor update at the time of Muskrat Falls sanction, the quantitative objectives or targets and the detailed list of goods and services required by the Project. Further, that this update be done in consultation with interested parties and the information be provided for Muskrat Falls construction and, to the extent possible, for the Project as a whole.

Response:

The Government of Newfoundland and Labrador accepts the intent of the Panel's recommendation and notes that this recommendation has been directed to the proponent. The Government of Newfoundland and Labrador will cooperate with Nalcor, relevant line departments and private sector interests to update Project requirements for goods and services. The goal is to enhance supplier development opportunities and processes for local and provincial firms for both Muskrat Falls and, where possible the Project as a whole.

Rationale:

First Draft - November 8, 2011

The Department of Innovation, Trade and Rural Development (INTRD) leads the Supplier Development Program which promotes the growth and development of small and medium-sized enterprises within the province. This program help position Newfoundland and Labrador firms to supply quality goods and services at competitive costs to public and private sector entities in local, national and international markets.

INTRD collaborates with public sector entities, industry associations and private sector companies to help local firms identify potential buyers for their products and services, navigate and interpret the procurement process, access supply opportunities, and establish mutually beneficial vendor-buyer partnerships.

It is essential that the proponent develop and make available current, reliable and detailed quantitative information related to required goods and services for the Project at time of sanction. The establishment of the Business Opportunities Committee or similar structure, with a full time Coordinator in Happy Valley-Goose Bay, seems to provide an opportunity to match accurate needs with existing and potential business supply capabilities within Labrador, and the Province. This process will assist the proponent in developing realistic targets based on evidence-based supply capabilities of Labrador and Island firms and in the development of mechanisms to enhance the supply capacity of firms. As noted in 12.9, INTRD in its role of delivering Enhanced Supplier Development/Diversity Program will ensure measurements are in place to support ongoing evaluation of supplier development activities in general which will include outcomes of Muskrat Falls.

(No. 52)

Recommendation 12.11 – Transparent bidding process

The Panel recommends that, if the Project is approved, Nalcor implement a transparent bidding process that ensures that bidders are fully aware of the decision-making process, unsuccessful bidders can find out the reasons why and thereby improve, and Nalcor's commitments and programs apply and are enforced by all its contractors, sub-contractors and suppliers.

Response:

The Government of Newfoundland and Labrador accepts the intent of the Panel's recommendation and notes that this recommendation has been directed to the proponent. The Government of Newfoundland and Labrador will cooperate with Nalcor, relevant line departments and private sector interests through the Enhanced Supplier Development/diversity Program to support in the development of a transparent bidding process applicable to all contractors, sub-contractors and suppliers.

Rationale:

The Department of Innovation, Trade and Rural Development (INTRD) leads the Supplier Development Program which promotes the growth and development of small and medium-sized enterprises within the province. This program help position Newfoundland and Labrador firms to supply quality goods and services at competitive

First Draft - November 8, 2011

costs to public and private sector entities in local, national and international markets.

INTRD collaborates with public sector entities, industry associations and private sector companies to help local firms identify potential buyers for their products and services, navigate and interpret the procurement process, access supply opportunities, and establish mutually beneficial vendor-buyer partnerships.

In addition, as lead department responsible for business development, INTRD through suite of funding and non funding programs will support and invest in businesses to become ready for opportunities.

(No. 53)

Recommendation 12.12 – Modifications to the Benefits Strategy

The Panel recommends that, if the Project is approved, Nalcor and the provincial Department of Natural Resources modify two overall provisions of the Benefits Strategy. The first is to ensure that both the monthly reports on employment and goods and services and the quarterly reports on compliance are publically available and not restricted by the confidentiality provisions of Nalcor's legislation. The second is to remove the provision that allows the Minister to modify the benefits targets and other commitments regarding this Project at the Minister's sole discretion.

Response:

The Government of Newfoundland and Labrador does not accept this recommendation.

Rationale:

- The Lower Churchill Construction Projects Benefits Strategy provides that Nalcor must report on a range of benefits targets and commitments to Government and that the Minister may provide updates to the public or House of Assembly.
- The ability of the Minister to consider the full range of implications of public release and modifying the benefits targets must not be fettered. There are other considerations important to the province that the Minister must weigh in determining any target modifications or public release of information.
- Government is committed to the principle of protecting commercially-sensitive information. Government will protect commercially-sensitive information relating to the Project in the same manner it protects commercially-sensitive information in all other sectors of the economy.

(No. 54)

Recommendation 13.1 – Sheshatshiu social effects mitigation

The Panel recommends that, if the Project is approved, Innu Nation, Sheshatshiu Innu Band Council, Nalcor, the provincial Department of Health and Community Services, and relevant federal government departments develop a Memorandum of Understanding with regard to identifying and implementing (a) mechanisms to prevent the exacerbation of existing social problems and (b) mitigation measures such as mental health and

First Draft - November 8, 2011

addictions services and family support required to address any Project-related increases in social problems. Each party would bring to the table its relevant knowledge and resources. In the case of Innu Nation and Sheshatshiu Innu Band Council, this would include any provisions of the Impacts and Benefits Agreement component of the Tshash Petapen Agreement that directly address this issue. In the case of Nalcor, its role would be to adjust hiring, employment and employee assistance arrangements where possible and appropriate to assist or reinforce mitigation. The federal and provincial governments should provide resources to discharge their responsibilities in these areas.

Response:

The Government of Newfoundland and Labrador accepts the intent of this recommendation for Nalcor, provincial health and social service providers, the community and relevant federal government departments to work together to mitigate project related increases in social problems in the communities of the Upper Lake Melville area including Sheshatshiu.

Rationale:

Psychosocial issues will impact individuals and families in communities near the development (including Happy Valley-Goose Bay, Mud Lake, Sheshatshiu and North West River).

A key component of this recommendation is the delineation/clarification of jurisdictional responsibilities related to:

- preventing further social problems; and
- mental health, addiction and family support services mitigation measures.

Project related medical and social problems resulting from mercury contamination may have a greater impact on Aboriginal people due to their traditional diet and high fish consumption.

(No. 55)

Recommendation 13.2 – Social Effects Needs Assessment and Outreach

The Panel recommends that, if the Project is approved, the provincial Department of Health and Community Services, in consultation with Aboriginal groups, and appropriate government and community agencies from the Upper Lake Melville area, conduct a social effects needs assessment, including an appropriately resourced participatory research component, that would determine the parameters to monitor, collect baseline data, and provide recommendations for social effects mitigation measures and an approach to on-going monitoring. It is expected that Innu Nation would be a participant in the research and that the results would inform and enhance the social effects mitigation measures suggested in Recommendation 13.1. The results of the needs assessment would be documented in a public report and, subject to the agreement of participants, the results of the research would be published in a peer-reviewed journal.

Response:

First Draft - November 8, 2011

The Government of Newfoundland and Labrador accepts the intent of the recommendation for the Department of Health and Community Services to conduct a need assessment. However, there are aspects of this recommendation that are beyond the control of the Department of Health and Community Service, specifically conducting the research and having it published in a peer reviewed journal. The Department of Health and Community Services is committed to partnering with relevant research and academic institutions to pursue the intent of the recommendation.

Rationale:

The recommendation for a needs assessment is consistent with the presentation that Health and Community Services and Labrador-Grenfell Health gave to the Panel during the public hearing process.

(No. 56)

Recommendation 13.3 – Worksite measures to address addictions issues

The Panel recommends that, if the Project is approved, Nalcor conduct careful monitoring of the effectiveness of the policy of controlled access to alcohol at the accommodation camps and provide professional addictions counseling to employees.

Response:

The Government of Newfoundland and Labrador accepts the intent of this recommendation for Nalcor to monitor its accommodation camp alcohol related policies and to provide addictions services for employees.

Rationale:

During the Review Panel Hearings the Department of Health and Community Services and Labrador-Grenfell Health recommended that Nalcor should consider augmenting their proposed on-site primary health care services with Allied Health Professionals to enhance their wellness program, mental health and addictions education, and assessment and counselling services.

(No. 57)

Recommendation 13.4 – Variety of work schedules

The Panel recommends that, if the Project is approved, Nalcor offer a variety of work schedules, and require the same of its contractors, to accommodate different groups of workers and to assist in meeting its employment goals, particularly for Aboriginal employees and women.

Response:

The Government of Newfoundland and Labrador accepts the intent of this recommendation. The Labour Relations Agency supports the rationale for the imposition of a variety of work schedules to assist in meeting employment goals. Any schedules put in place must comply with the minimum terms and conditions of employment as established in the *Labour Standards Act*.

First Draft - November 8, 2011

Rationale:

The *Labour Standards Act* establishes the minimum terms and conditions of employment in Newfoundland and Labrador and contains provisions that address hours of work, day of rest requirements, etc. These provisions are general in application and are not designed to address any specific employment goals.

(No. 58)

Recommendation 13.5 – Health and social services

The Panel recommends that, if the Project is approved, the provincial Department of Health and Community Services formally commit to provide the human resources required to address any Project-related increases in the demand for mental health, addictions and other health and social services at the Labrador Health Centre, as identified in the needs assessment. Nalcor's contribution to mitigation measures to address this should be clarified through a Memorandum of Understanding with the Labrador-Grenfell Regional Health Authority.

Response:

The Government of Newfoundland and Labrador accepts the intent of the recommendation for Labrador-Grenfell Health to be provided with sufficient resources to meet project related health services demands. The needs assessment will identify potential human resource needs and the Department will work with Labrador-Grenfell Health and Nalcor to address human resource deficits.

Rationale:

The Department of Health and Community Services and the Labrador-Grenfell Health Authority are responsible for providing the broad range of health services to the people of the Upper Lake Melville area. The Department and Labrador Grenfell Health in collaboration with appropriate partners will carry out a health services needs assessment in relation to the Project's impacts on services. In addition, the Department and Labrador-Grenfell Health will work towards a Memorandum of Understanding with Nalcor regarding mitigation of project impacts on health services.

(No. 59)

Recommendation 13.6 – Capacity agreement with Happy Valley-Goose Bay

The Panel recommends that, if the Project is approved, the Government of Newfoundland and Labrador and Nalcor negotiate a capacity agreement with the Town of Happy Valley-Goose Bay to provide financial resources to increase the Town's capacity to address additional administrative demands related to the Project. The time period for the agreement would be negotiated by the parties and should relate to the needs expected at different stages of the Project. The resources would be intended to enable the Town to:

- establish baseline data on infrastructure capacity and use prior to the start of construction;

First Draft - November 8, 2011

- monitor Project-related infrastructure effects throughout the construction period of the Project and identify needed mitigation;
- prepare, publicize and update on a regular basis, emergency preparedness plans to address the possibility of a catastrophic flood event;
- prepare a low income housing strategy; and
- Address issues related to Project-related in-migration and the potential economic downturn at the end of the construction phase, and any other Project-related effects within the Town, not otherwise mitigated.

Response:

The Government of Newfoundland and Labrador accepts the intent of the recommendation to work with Nalcor to negotiate a capacity agreement with the Town of Happy Valley-Goose Bay to provide financial resources which will increase the Town's capacity to address additional administrative demands related to the Project. The rationale for the increased administrative demand will need to be substantiated during the negotiation process.

Rationale:

The Department of Municipal Affairs will work with Nalcor and other applicable provincial government departments to ensure that resources are available to the Town should increased administrative demand be substantiated. Should additional resources be required it will enable the Town to identify needed mitigation measures so that infrastructure and servicing needs are met.

(No. 60)

Recommendation 13.7 – Funding for infrastructure mitigation

The Panel recommends that, prior to Project sanction, a binding and firm commitment be given by Nalcor and the Government of Newfoundland and Labrador that sufficient funds and resources be made available to fully mitigate Project-related adverse impacts on infrastructure in Happy Valley-Goose Bay.

Response:

The Government of Newfoundland and Labrador accepts the intent of this recommendation to provide sufficient funds and resources to fully mitigate Project-related adverse impacts on infrastructure in Happy Valley-Goose Bay. Government agrees with the conditions in the recommendation; however the adverse impacts will need to be substantiated and appropriate mitigation measures identified. A firm commitment for funding cannot be given until the required mitigation measures are determined and analysed.

Rationale:

The Government of Newfoundland and Labrador recognizes that funding may be required to mitigate Project-related adverse impacts on HVGB infrastructure however each of the mitigation measures resulting from the study in Recommendation 13.6 will need to be evaluated to determine if it is feasible and appropriate.

First Draft - November 8, 2011

(No. 61)

Recommendation 13.8 – Low-income housing strategy

The Panel recommends that, if the Project is approved, before construction begins, Nalcor support the efforts of the Town of Happy Valley-Goose Bay, relevant federal and provincial departments, and local low-income housing agencies, to develop and implement a strategy to set measurable targets, address the existing low-income housing needs and mitigate the adverse impacts of Project-related in-migration on low-income housing.

Response:

Newfoundland Labrador Housing Corporation (NLHC) accepts this recommendation and will work with Nalcor, the Town of Happy Valley-Goose Bay and other relevant departments and agencies to develop a strategy to address low-income housing needs in the area.

Rationale:

Newfoundland Labrador Housing Corporation accepts this recommendation as their mandate is “to develop and administer housing policy and programs for the benefit of low to moderate income households throughout the province.” NL HC is committed to working with the appropriate parties to ensure a viable plan is put in place to assist in mitigating the adverse impacts of Project-related in-migration on low-income housing.

(No. 62)

Recommendation 13.9 – Possible requirement for consumption advisories in Goose Bay or Lake Melville.

The Panel recommends that, if the Project is approved and the outcome of the downstream mercury assessment (Recommendation 6.7) indicates that consumption advisories would be required for Goose Bay or Lake Melville, Nalcor enter into negotiations prior to impoundment with the parties representing – as appropriate – Goose Bay and Lake Melville resource users. Depending on where the consumption advisories would apply, these could include Aboriginal groups, the Town of Happy Valley-Goose Bay, Mud Lake Improvement Committee, the Town of North West River and the community of Rigolet. The purpose of the negotiations would be to reach agreement regarding further mitigation where possible and compensation measures, including financial redress if necessary. This recommendation would also apply later in the process if the downstream mercury assessment indicated that advisories were not likely, but monitoring subsequently required their application.

Response:

The Government of Newfoundland and Labrador accepts the intent of this recommendation. If consumption advisories are required as a result of the downstream mercury assessment, then Nalcor should consult with downstream resource users on further mitigation measures, including the potential for compensation.

First Draft - November 8, 2011

Rationale:

This recommendation has been directed to Nalcor for implementation should their methyl mercury assessment and monitoring yield results that necessitate consumption advisories.

(No. 63)

Recommendation 13.10 – Consumption advisory implementation

The Panel recommends that, if the Project is approved and fish and seal monitoring indicates that consumption advisories are required, Nalcor:

- follow Health Canada guidelines regarding the establishment of human mercury hazard quotient levels and fish consumption advisories;
- consult with Aboriginal Affairs and Northern Development Canada regarding best practices for the communication of advisories;
- consult with Aboriginal groups and affected communities regarding an effective approach to the communication and implementation of consumption advisories that ensures that affected communities have an understanding of the quantities and types of fish that can be consumed safely and the health benefits of including fish in one's diet;
- ensure that notifications of the consumption advisories are placed at regular intervals in easily visible locations along the shorelines of affected water bodies;
- ensure that consumption advisories are updated as necessary to reflect any changes detected in mercury levels in fish or seal; and
- provide publicly accessible, up-to-date and accurate information through the internet, radio, newspapers and other means regarding the health risks of mercury and the status of the advisories.

Response:

The Government of Newfoundland and Labrador accepts the intent of this recommendation for Nalcor to consult on approaches to communication and implementation of consumption advisories and to implement consumption advisory notifications. The Government of Newfoundland and Labrador will work with Nalcor and aboriginal groups on this issue.

Rationale:

Consumption advisories may be necessary to ensure that peoples' health is not negatively impacted by methylmercury in the food they consume. Extensive consultation with Aboriginal groups (e.g., Innu) is needed to ensure that effective and culturally appropriate communication protocols are established to get consumption advisories to those who need them in a timely fashion.

The Department of Health and Community Services and Labrador-Grenfell Health will collaborate with Nalcor, Aboriginal groups and others on this recommendation.

(No. 64)

First Draft - November 8, 2011

Recommendation 13.11 – Human health and mercury monitoring

The Panel recommends that, if the Project is approved, Nalcor, in collaboration with Health Canada and the provincial Department of Health and Community Services:

- consult with Aboriginal groups and affected communities regarding the approach to be taken to baseline and follow-up mercury testing and the communication of results for each group; and
- establish baseline human mercury levels in Churchill Falls, Upper Lake Melville communities and Rigolet, with consideration given to offering blood tests as well as hair samples for Innu participants, due to inconsistencies noted in the correlation between hair sample results and dietary consumption.

If consumption advisories are required, it is further recommended that Nalcor ensure that a human health mercury monitoring program is established concurrently with the issuing of consumption advisories. This monitoring would continue until five years after the lifting of consumption advisories, or until such time as determined by Health Canada, and would be overseen by the Monitoring and Community Liaison Committee described in Chapter 15

Response:

The Government of Newfoundland and Labrador accepts the intent of this recommendation for Nalcor to consult with Aboriginal groups and communities on approaches to baseline and follow-up mercury testing, and the establishment of baseline human mercury levels, in collaboration with the Department of Health and Community Services.

The Government of Newfoundland and Labrador believes that the proponent should take the lead with respect to issues related to mercury monitoring in people and the environment, including appropriate follow-up action that may be required to protect people from harm. The Government of Newfoundland and Labrador will work with Nalcor on issues related to mercury exposure and human health.

Rationale:

Given the potential for mercury accumulation in the environment and human exposure to mercury after the construction phase of the project, baseline and follow-up mercury testing should be carried out by Nalcor to determine potential negative health impacts of the project and to allow for appropriate mitigation strategies to be implemented in a timely fashion.

(No. 65)

Recommendation 13.12 – Dietary Surveys

The Panel recommends that, if the Project is approved and consumption advisories are required as a result of mercury levels in fish or seal, Nalcor conduct ongoing dietary surveys as an integral part of the mercury monitoring program, including fish, seal,

First Draft - November 8, 2011

caribou and other country food. Dietary surveys should be conducted concurrently with regular mercury testing in affected communities to determine the effectiveness of the consumption advisories and the overall impact on fish and country food consumption.

Response:

The Government of Newfoundland and Labrador accepts the intent of this recommendation for Nalcor to conduct dietary surveys and will work with Nalcor on this issue.

Rationale:

Dietary surveys are necessary to determine if people are consuming foods, and the quantity of foods, that might be impacted by methyl mercury in the environment. The Department of Health and Community Services and Labrador-Grenfell Health will collaborate with Nalcor on this recommendation.

(No. 66)

Recommendation 13.13 – Research on mercury in country food

The Panel recommends that, if the Project is approved, the provincial Department of Labrador and Aboriginal Affairs, in consultation with Health Canada and Aboriginal groups, initiate a study of (a) the extent of country food contamination by mercury and other contaminants and (b) human consumption levels of country food, particularly in areas where people are also exposed to mercury in fish, to identify the potential risks to human health in Labrador.

Response:

The Government of Newfoundland and Labrador accepts the intent of this recommendation, but feels this study should be integrated with recommendations 13.11 and 13.12. That is, this type of information should be part of the proponent-led activities described in recommendations 13.11 and 13.12.

Rationale:

The Government of Newfoundland and Labrador agrees that methyl mercury levels in all country foods, not just fish, needs to be considered in an overall assessment of the human health risk resulting from any ingestion of methyl mercury. However, the Government of Newfoundland and Labrador feels that a study of this nature would be best conducted concurrently with the establishment of baseline data, follow-up mercury testing, and communication of results, in consultation with affected Aboriginal groups and communities, by the proponent as noted in recommendation 13.11, and with any proponent-required dietary surveys required by recommendation 13.12. The Departments of Labrador and Aboriginal Affairs, Environment and Conservation, and Health and Community Services, in collaboration, if needed, with the federal government, will, to the extent necessary, assist the proponent with the integration of this recommendation into recommendations 13.11 and 13.12, and with the implementation of recommendations 13.11 and 13.12.

First Draft - November 8, 2011

(No. 67)

Recommendation 14.1 – Emergency preparation for the possibility of a dam failure

The Panel recommends that, if the Project is approved, Nalcor be required to:

- prepare and provide to affected communities updated maps that more clearly show areas that would be flooded following a dam failure;
- prepare, in consultation with the relevant communities and appropriate authorities, an Emergency Preparedness Plan, for response in the event of catastrophic dam failure, and emergency response procedures and community evacuation procedures related to a dam failure and subsequent flooding; the Plan should be reviewed every five years;
- work with each community that has been identified as being at risk of flooding in the event of a dam failure to develop evacuation plans, to be completed prior to filling of the reservoirs;
- work with emergency response providers and assist as appropriate in the event of an evacuation;
- implement a flood warning system for Mud Lake and Happy Valley-Goose Bay to be approved by the provincial Department of Environment and Conservation; and
- conduct seismographic monitoring in the Project area prior to construction.

Response:

The Government of Newfoundland and Labrador accepts the intent of this recommendation. It is appropriate that the proponent be directed to ensure that comprehensive emergency preparedness planning is undertaken in consultation with communities identified as potentially at risk from a catastrophic dam failure.

Rationale:

It is noted that this recommendation is directed to Nalcor. Details of emergency preparedness land and processes can be addressed by Nalcor in consultation with communities identified as potentially at risk.

(No. 68)

Recommendation 14.2 – Compensation for losses in the event of a dam failure

The Panel recommends that, if the Project is approved, the Government of Newfoundland and Labrador require Nalcor to assume liability on a 'no fault' basis for any loss of life and financial losses incurred because of the destruction of property and belongings and disruption of activities caused by flooding as a result of one or more dams failing on the lower Churchill River. Nalcor should provide guarantees in the form of insurance, bonds or other appropriate measures that individuals, businesses and institutions suffering damage would receive full compensation, the amount to be determined by a neutral third party, regardless of the cause of the dam failure.

Response:

The Government of Newfoundland and Labrador accepts the intent of this

First Draft - November 8, 2011

recommendation. Nalcor will be required to have insurance for losses in the event of possible dam failure in place as per industry standards. Requiring Nalcor to accept full liability in any circumstances may be in excess of the liability for such an event under current laws, ie. since it is possible that others/or events may be responsible. In the event of any loss Government will require Nalcor to respond to any losses resulting from its negligence to the full extent of its legal obligations.

Rationale:

The Government of Newfoundland and Labrador accepts the intent of this recommendation. However, it cannot require Nalcor to accept liability on a 'no fault' basis for any and all losses in the event one or all of the dams fail since it is possible that others, besides Nalcor, may be responsible. Government will ensure that all dams are regularly inspected and maintained by Nalcor and that Nalcor has insurance in place as per industry standards. Government will respond to any losses as appropriate but policy decisions may have to be made by Government to limit or control the remoteness of the damages which could be compensated in order to provide some control over indeterminate liability. Strict liability will raise both commercial and policy issues for Nalcor and Government.

(No. 69)

Recommendation 14.3 – Seismic testing

The Panel recommends that, if the Project is approved, Nalcor carry out seismic testing during reservoir filling and apply appropriate mitigation measures in the event of a seismic event related to reservoir filling.

Response:

(Add NR – Petroleum here)

Rationale:

(No. 70)

Recommendation 15.1 – Authorizing Regulation

The Panel recommends that, if the Project is approved, the Government of Newfoundland and Labrador issue an authorizing regulation or equivalent mechanism that:

- lists and requires Nalcor to implement all its environmental management commitments in relation to the Project made during the course of the environmental assessment, plus the additional measures recommended by the Panel and accepted by the Government of Newfoundland and Labrador;
- lists and requires provincial departments to implement all their environmental management commitments in relation to the Project made during the course of the environmental assessment, plus the additional measures recommended by the Panel and accepted by the Government of Newfoundland and Labrador;
- includes a mechanism for updates as required to reflect any additions or changes,

First Draft - November 8, 2011

including adaptive management strategies that may be required and are not yet identified;

- ensures compliance with Environmental Protection Plans, Emergency Response Plans, Contingency Plans, Occupational Health and Safety Plans, and Environmental Effects Monitoring Plans including those that are implemented through another regulatory instrument and those that are unregulated;
- requires Nalcor to prepare and publish on the internet an annual report describing its environmental management activities and results, including mitigation, monitoring and adaptive management as appropriate, and related disbursements;
- establishes a monitoring and community liaison committee; and
- remains in effect for the duration of the construction period and a sufficient period of time thereafter to ensure there is no longer a risk of adverse effects as a result of the Project.

Response:

The Government of Newfoundland and Labrador accepts the intent of this recommendation and will make regulations to ensure compliance with environmental management commitments and measures and the establishment of a Monitoring and Community Liaison Committee.

Rationale:

The Government of Newfoundland and Labrador will prepare regulations to bring in effect all the environmental management commitments made by Nalcor and government authorities. The regulations will require Nalcor to establish a Community Monitoring and Liaison Committee and publish annually the results of their monitoring and performance.

(No. 71)

Recommendation 15.2 – Federal – Provincial Joint Regulatory Plan

The Panel recommends that, if the Project is approved, the federal and provincial governments prepare a joint regulatory plan for the Project which outlines their respective regulatory requirements and includes a coordinated approach to areas where there is overlapping or related jurisdiction, and commit to it by signing a Memorandum of Agreement. The regulatory plan should address the regulations, guidelines, standards and criteria to be applied to activities. Each government would appoint a coordinating department or agency to prepare the plan and to produce a joint annual report regarding Nalcor's compliance, any issues or problems that were identified and how they were resolved. This report would be made available to the public through the internet.

Response:

The Government of Newfoundland and Labrador accepts the intent of this recommendation and will continue to work to ensure collaboration with federal regulatory authorities to develop a coordinated and effective approach regarding compliance and inspection activities for the Lower Churchill Hydroelectric Generation Project. As identified in the Government Response to recommendation 15.1 the

First Draft - November 8, 2011

Government's regulatory requirements will be described in the Environmental Protection Plan and reporting procedures will be set out in regulations.

Rationale:

The Government of Newfoundland and Labrador accepts the intent of this recommendation. However to avoid duplication of activities, both the provincial and federal governments regulatory requirements will be described in the Environmental Protection Plan and a results/performance document will be prepared annually by Nalcor and made available to the public under recommendation 15.1.

(No. 72)

Recommendation 15.3 – Long-term funding for environmental management from Nalcor

The Panel recommends that, if the Project is approved, and to the extent that funds are not committed from other sources, Nalcor identify and allocate in its detailed Project budget, financial support for environmental management for the duration of Project construction. The Panel further recommends that Nalcor make a general commitment with a ten-year forecast, to be updated every five years, until such time as there is no longer evidence of ongoing environmental effects resulting from the Project.

Response:

The Government of Newfoundland and Labrador accepts the intent of this recommendation that Nalcor should budget funds to meet its environmental management obligations.

Rationale:

Government accepts that Nalcor should budget funds to meet its environmental management obligations, however, determining the method of doing so is the responsibility of the Proponent.

(No. 73)

Recommendation 15.4 – Long Term Funding for Environmental Management from government departments

The Panel recommends that, if the Project is approved, the governments of Newfoundland and Labrador and Canada make long-term commitments to support annual budget requests by the relevant departments with responsibilities for project-related environmental management including socio-economic mitigation commitments. The Panel further recommends that the governments make general commitments with a ten-year forecast, to be updated every five years, until such time as there is no longer evidence of ongoing environmental effects resulting from the Project.

Response:

(Add FIN here)

First Draft - November 8, 2011

Rationale:

(No. 74)

Recommendation 15.5 – Lower Churchill Project Monitoring and Community Liaison Committee

The Panel recommends that, if the Project is approved, prior to the start of construction, the provincial Department of Environment and Conservation appoints a Monitoring and Community Liaison Committee, using a community-based nomination process. Nalcor, through the Department, should provide the Committee with sufficient resources to allow for staff support, expenses and a modest honorarium for non-government participants, acquisition of independent expert advice, and adequate communication with community residents including occasional public forums. The mandate of the Committee would be set out in the Authorizing Regulation and the Federal-Provincial regulatory plan. The Committee would operate throughout the construction period and for the first ten years of the operating period, at which point the continuing need for the Committee should be reassessed by the Department in consultation with the Committee, the communities and Nalcor. The Committee would:

- provide community feedback and advice to the Department and to Nalcor on relevant issues including Project-specific mitigation, impact monitoring and adaptive management committed to by Nalcor and as recommended by the Panel;
- be empowered as required to establish subcommittees or working groups to address the key areas of biophysical monitoring and follow-up, enhancing employment and business benefits, and health and social issues;
- have representation from communities, community-based agencies and non-government organizations, Aboriginal organizations, relevant federal and provincial government departments and Nalcor (ex-officio); and
- liaise with the public to ensure a transparent approach to addressing public concerns and the communication of monitoring results.

Response:

The Government of Newfoundland and Labrador accepts the intent of this recommendation to establish an environmental Monitoring and Community Liaison Committee. As identified in the Governments' response to recommendation 15.1 a committee will be established by Nalcor to provide feedback and advice to the Proponent and Government on the effects of the Project. The Government is committed to ensuring consultation with affected Aboriginal groups, communities, and relevant stakeholders to address public concerns and communicate monitoring results.

Rationale:

The Government of Newfoundland and Labrador accepts that Nalcor should establish the Committee at the detailed Project planning stage to assure the general public that the Project is proceeding within its approved guidelines. Nalcor would also lead subcommittees on biophysical, economic and social/health effects monitoring. Government departments would be involved on monitoring committees and attending

First Draft - November 8, 2011

community meetings.

(No. 75)

Recommendation 15.6 – Project-specific effects monitoring programs

The Panel recommends that, if the Project is approved, all Project-specific effects monitoring programs, whether conducted by Nalcor, governments or in combination, include the following elements:

- identification of monitoring objectives and means of achieving verifiable results capable of guiding remedial action;
- formulation of clearly stated research questions capable of testing impact predictions;
- key measurable indicators linking Project activities to outcomes, and threshold or reference levels to identify Project effects;
- strategies and protocols for data collection and quality control;
- protocols for data compilation, storage, control and access;
- provision for data analysis and assessment; and
- reporting procedures and schedules.

Response:

The Government of Newfoundland and Labrador accepts the intent of this recommendation and will work with other responsible parties to implement the recommendation to the extent of its authority. The Government of Newfoundland and Labrador notes that socio-economic thresholds cannot always conclusively identify Project effects because socio-economic conditions are complex and affected by many external factors. However, Government is committed to identifying key measurable socio-economic indicators that can be linked to Project activities and are most likely to identify trends.

Rationale:

The Government of Newfoundland and Labrador accepts the intent of this recommendation. The systematic approach outlined is to ensure that the results of the monitoring programs for the Project would have public credibility and scientific relevance.

(No. 76)

Recommendation 15.7 – Adaptive Management

The Panel recommends that, if the Project is approved, adaptive management for Project specific or cumulative effects, whether conducted by Nalcor, governments, or in combination, include the following components:

- commitment to a proactive approach to adaptive management;
- clearly defined impacts thresholds to clarify where and when adaptive responses would be necessary;

First Draft - November 8, 2011

- implementation and contingency plans and resources to enable responsive action especially in areas where effect predictions are thought to be uncertain and where predictive errors may have serious consequences;
- transparent process for setting and adjusting monitoring and management priorities; and
- provision for regular review of adaptive management effectiveness, adjustment of related monitoring and responses to focus on significant continuing concerns.

Response:

The Government of Newfoundland and Labrador accepts the intent of this recommendation. While the Government of Newfoundland and Labrador will consider the elements of this recommendation in its future activities, it notes that some elements, in particular a requirement to define impact thresholds for socio-economic indicators, may not be possible.

Rationale:

The Government of Newfoundland and Labrador accepts the intent of the recommendation and its elements regarding the general approach to adaptive management. The provincial government departments would be responsible for adaptive management.

(No. 77)

Recommendation 15.8 – Complaints resolution

The Panel recommends that, if the Project is approved, before the start of construction, Nalcor develop a complaints resolution process, in consultation with the Monitoring and Community Liaison Committee, to address concerns relating to possible adverse Project effects on individuals, and to be implemented during construction and operations. The process could include the following:

- easy access for individuals to bring concerns or complaints to Nalcor via a toll-free phone number, website and other appropriate means;
- dedicated Nalcor staff support to receive, process and respond to complaints;
- a tracking process with response time targets;
- third-party adjudication in the event that complaints cannot be otherwise resolved to the satisfaction of both Nalcor and the complainant; and
- a system to report on complaints received and how they were resolved.

Response:

The Government of Newfoundland and Labrador accepts the intent of this recommendation. Any complaints resolution process should be, as the Panel has recommended, left to Nalcor to develop and implement.

Rationale:

It is noted that this recommendation has been directed to Nalcor. The internal process through which complaints are addressed can be decided by Nalcor.

First Draft - November 8, 2011

(No. 78)

Recommendation 15.9 – Environmental Review in the event that construction of the second generation facility is delayed

The Panel recommends that, if the Project is approved and the construction of the second generating facility and reservoir does not start before the first is completed, the environmental release would expire and terms and conditions contained in the original release would be revisited. The extent of the review required for later release would be the decision of the relevant federal and provincial governments, depending on applicable laws and circumstances at the time.

Response:

The environmental assessment of the Lower Churchill Hydroelectric Generation Project (the Project) as described in the Environmental Impact Statement (EIS) was completed in accordance with the *Environmental Protection Act* and the federal *Canadian Environmental Assessment Act* and any release will cover the entire project as registered by Nalcor.

Rationale:

The Government of Newfoundland and Labrador does not accept this recommendation. Any release will relate to the entire project as registered by Nalcor and not a Project component. The entire project is:

- Muskrat Falls dam, generation facility and reservoir;
- Gull Island dam, generation facility and reservoir; and
- Switchyards and transmission line(s) between Muskrat Falls, Gull Island and Churchill Falls.

(No. 79)

Recommendation 15.10 – Local hiring for environmental management work

The Panel recommends that, if the Project is approved, where possible, Nalcor hire local people to work on environmental monitoring and mitigation projects to benefit from their local knowledge and to develop local skills and experience in the field of environmental management.

Response:

The Government of Newfoundland and Labrador accepts the intent of this recommendation that Nalcor hire local people during the construction phase of the project.

Rationale:

- This recommendation is consistent with the Lower Churchill Construction Projects Benefits Strategy that establishes the Project's hiring protocols. Sections 4.3 and 4.4 of the Strategy are specifically relevant to this recommendation, while remaining subject to the sections relating to gender equity and diversity provisions.

First Draft - November 8, 2011

- Section 4.3 sets generating station hiring protocols consistent with the Canadian Charter of Human Rights. The protocol will implement commitments made in any executed Impacts and Benefits Agreement (IBA), followed by first consideration for employment for qualified residents of Labrador followed by qualified residents of the province.
- Section 4.4 sets HVdc transmission system hiring protocols consistent with the Canadian Charter of Human Rights. The protocol will implement commitments made in any executed Impacts and Benefits Agreement (IBA), followed by first consideration for employment for qualified residents of the province.

(No. 80)

Recommendation 15.11 – Government Response to Panel Report

The Panel recommends that the federal and provincial governments provide written responses to the Panel report and that these responses be made available to the general public through the internet.

Response:

The Government of Newfoundland and Labrador accepts this recommendation and will provide a written response to the Panel report and make that response available to the general public through the internet.

Rationale:

The Government of Newfoundland and Labrador accepts this recommendation in full. Providing a written response to the Panel report and making it available on the internet helps the Province explain its position on the Panel report to the public, Aboriginal groups, the proponent and regulatory authorities.

A joint (federal-provincial) response should be prepared with the Government of Canada for clarity of the government response to all above.

(No. 81)

Recommendation 15.12 – Decommissioning

The Panel recommends that Nalcor demonstrate, prior to Project approval and in a manner acceptable to both governments, how it will assume financial responsibility for the potential future decommissioning of the Project to ensure that decommissioning does not become a burden to future generations.

Response:

Hydro generation is a renewable energy source and these facilities when maintained and refurbished, continue to function for 100's of years. No decommissioning plans have ever been required by the Water Resources Management Division in the past for any other hydroelectric development.

Rationale:

First Draft - November 8, 2011

N/A

(No. 82)

Recommendation 16.1 – Regionally integrated cumulative effects assessment

The Panel recommends that, if the Project is approved, the provincial Department of Environment and Conservation, in collaboration with the provincial Department of Labrador and Aboriginal Affairs and other relevant departments, identify regional mechanisms to assess and mitigate the cumulative effects of current and future development in Labrador.

Response:

The Government of Newfoundland and Labrador accepts the intent of this recommendation. The Government of Newfoundland and Labrador will identify regional mechanisms to assess and mitigate the cumulative effects of future development projects in Labrador.

Rationale:

The Department of Environment and Conservation and Department of Labrador and Aboriginal Affairs will work together to identify regional mechanisms to assess and mitigate the cumulative effects of future development projects in Labrador.

(No. 83)

Recommendation 16.2 – Establishment of Protected Areas

The Panel recommends that, if the Project is approved, the provincial Department of Environment and Conservation commit resources to advance the Protected Areas Strategy process by working towards the following goals and reporting annually on progress:

- identify priority candidate areas for provincial protection in Labrador in order to bring the total protected area (federal and provincial) up to the national average (approximately 8.5 percent) before any additional major development is approved in Labrador;
- identify additional candidate areas in Labrador needed to bring the total protected area up to the level identified in the Protected Areas Strategy as desirable for adequate conservation purposes (10 to 15 percent);
- through this process, address preservation of representative areas of all ecozones, mitigation of habitat fragmentation, especially for migratory wildlife, and protection of selected rivers; and
- establish a schedule to ensure that priority candidate areas are protected.

Response:

This recommendation is outside the scope of the Panel's mandate. The Government of Newfoundland and Labrador is advancing the Protected Areas Strategy in Labrador. Two priority candidate areas are currently proposed for protection: the Mealy Mountains

First Draft - November 8, 2011

National Park and the Eagle River Waterway Provincial Park. If, through the standard processes of public consultation and protected areas planning, these two proposed areas are established as parks, the total protected area in Labrador would be increased to an estimated 8.0 % of the land base.

The Provincial Government, through the Department of Environment and Conservation, has also partnered with the Nature Conservancy of Canada to develop a "Conservation Blueprint" for Labrador. This project involves a variety of partners to collect relevant biophysical and land use information to support conservation and other land management decisions in Labrador. Criteria for selecting areas of conservation interest is also being jointly developed by the partners. Reporting on the Conservation Blueprint is scheduled to be delivered in 2012.

Rationale:

The process of conservation planning in Labrador is complex, given the existence of aboriginal land rights and aboriginal land use planning, as well as increasing development pressures to access resources in Labrador. Identification and establishment of new protected areas requires considerable consultation, discussion and negotiation, and must ultimately be debated and considered by Cabinet. At this time it is not possible to set a definitive schedule for the establishment of new protected areas in Labrador, especially when additional priority candidate areas have not yet been identified. Given the anticipated pace of conservation planning, a biennial rather than annual reporting schedule is more reasonable.

Matrix for Response to Recommendations (October 27, 2011)

No.	Joint Review Panel Recommendations	To whom recommendation is directed Federal, Provincial, and/or Proponent (Nalcor)	Identify Department with mandate and/or expertise to lead Provincial Government response	Identify if your Department has some input on response (support)	Comments
#	Recommendation No. and Title		Department Name(s)	Department Name(s)	
1	4.1 Government confirmation of projected long-term returns	Provincial	NR-Energy	INTRD	INTRD - in partnership with FIN
2	4.2 Independent analysis of alternatives to meeting domestic demand	Provincial, Nalcor	NR-Energy	CCEEET	
3	4.3 Integrated Resource Planning	Provincial, Nalcor	NR-Energy	ENVC-LM	
4	4.4 Project sequencing and applying lessons learned	Nalcor	NR-Energy		
5	4.5 Full clearing of the Muskrat Falls reservoir	Nalcor	NR-Forestry	NR-Energy	
6	4.6 Preparation approach for Gull Island reservoir	Provincial, Nalcor	NR-Forestry	NR-Energy	
7	4.7 Utilization of merchantable timber	Nalcor	NR-Forestry	INTRD, LAA	INTRD –in partnership with NR
8	5.1 Use of best available technology	Nalcor	ENVC-PPD	INTRD, CCEEET	RBI, Innovation, etc.
9	5.2 Backing up intermittent renewable energy	Nalcor	NR-Energy		
10	5.3 Displacement of high greenhouse gas energy sources	Nalcor	CCEEET		Office of Climate Change
11	5.4 Atmospheric monitoring	Nalcor	CCEEET	ENVC-WR	CCEEET (bullets #1-3) WRMD (#4)
12	6.1 Timing of reservoir impoundment	Federal, Nalcor	ENVC-WR		
13	6.2 Environmental flow standards	Provincial, Federal, Nalcor	ENVC-WR		
14	6.3 Erosion and sedimentation prevention	Nalcor	ENVC-WR	NR-Mines	
15	6.4 Mitigating entrainment effects	Federal	ENVC-Wildlife		
16	6.5 Pilot study for methylmercury mitigation through soil removal	Federal, Nalcor	ENVC-WR		
17	6.6 Fish habitat compensation	Federal	ENVC-WR	LAA	
18	6.7 Assessment of downstream effects	Federal	ENVC-WR	ENVC-Wildlife, LAA	
19	6.8 Published analysis of downstream effects over time	Nalcor	ENVC-WR	ENVC-Wildlife	
20	6.9 Development of the aquatic monitoring program	Federal	ENVC-WR	ENVC-Wildlife, LAA	- ENVC-Wildlife (Aquatics Research) Inland Waters
21	7.1 Wetland compensation plan	Nalcor, Federal	ENVC-Wildlife	ENVC-Wildlife, LAA	
22	7.2 Riparian compensation plan	Federal	ENVC-Wildlife	ENVC-Wildlife, LAA	- ENVC riparian habitat needs for species outlined in presentations
23	7.3 Recovery strategies for endangered species	Provincial, Federal	ENVC-Wildlife	ENVC-PNA	

Matrix for Response to Recommendations (October 27, 2011)

24	7.4 Compliance with species at risk legislation	Nalcor	ENVC-Wildlife		
25	7.5 Road construction and decommissioning	Provincial	NR-Forestry	ENVC-LM, TW, MA	- ENVC-LM (Crown Lands Admin.) must authorize privately developed permanent roads not forest access roads. - TW engineering standards, road maintenance and use. - MA - Policy development to control or regulate private land use proposals that are accessed by dam road network.
26	7.6 Recovery of the Red Wine Mountain caribou herd	Provincial, Federal	ENVC-Wildlife	ENVC-PNA, LAA	
27	7.7 Management of the George River caribou herd	Provincial, Federal	ENVC-Wildlife	ENVC-PNA, LAA	
28	7.8 Effect of reservoir preparation activities on migratory birds	Nalcor, Federal	ENVC-Wildlife		
29	7.9 Vegetation control	Nalcor	ENVC-PPD		- Pesticides (k. Linfield)
30	7.10 Monitoring, follow-up and adaptive management for the terrestrial environment	Nalcor	ENVC-Wildlife		
31	8.1 Trapping compensation program	Nalcor	LAA		
32	8.2 Mud Lake ice bridge mitigation	Provincial, Nalcor	ENVC-WR	LAA, MA	MA – Although not a Municipality or LSD Mud Lake is a settlement that may look to MA for guidance and financial assistance to maintain any alternative transportation route.
33	8.3 Navigation during impoundment	Nalcor	ENVC-EA		
34	8.4 Lower Churchill navigation mitigation and monitoring plan	Federal	ENVC-WR		
35	8.5 Allowing local forestry operators to clear additional areas	Provincial	NR-Forestry		
36	9.1 Noise and dust management	Nalcor	OHS		NR-Mines referred to OHS
37	9.2 Relocation of Canada yew	Nalcor	ENVC-Wildlife	LAA	
38	9.3 Community level land and resource use monitoring	Nalcor	LAA	MA	MA is intimately involved in land use issues in most affected communities except Shesatshui and Natuasish.
39	11.1 Involvement of Aboriginal groups in the management and protection of historic and archaeological resources	Nalcor	TCR-PAO	LAA	
40	11.2 Commemoration initiatives	Nalcor	LAA		
41	11.3 Naming Project-related features	Provincial	LAA		ENVC-LM man-made facilities &

Matrix for Response to Recommendations (October 27, 2011)

					roads would not be covered by geographic names board.
42	12.1 Early candidate selection and training	Nalcor	HRLE, EDU		EDU – Dependent on educational pre-requisites or at-risk individuals.
43	12.2 Workplace attachment for apprenticeship graduates	Nalcor	HRLE, EDU		EDU – Apprentices are not necessarily graduates. A MOU must be signed between EDU, Employer and Employee for an individual to become a registered apprentice.
44	12.3 Training to 'journeyperson' level in community of residence	Provincial, Nalcor	EDU	HRLE	
45	12.4 Address wage subsidy stigma	Nalcor	HRLE	EDU, INTRD	INTRD – currently address wage subsidy programs
46	12.5 Preparing for participation in wage economy	Nalcor	HRLE	HRLE, EDU, LAA	
47	12.6 Continuation of Labrador Aboriginal Training Partnership	Nalcor	EDU	HRLE, LAA	
48	12.7 Employment outreach to Quebec Aboriginal communities	Nalcor	LAA		
49	12.8 Quantitative targets for goods and services	Provincial	INTRD		Lead if suppl. Dev. Focus
50	12.9 Enhances supplier development program	Nalcor	INTRD		Enhanced supplier development approach
51	12.10 Update quantitative targets at time of sanction	Nalcor	INTRD		Lead if suppl. Dev focus
52	12.11 Transparent bidding process	Nalcor	INTRD		Suppl. Dev and procurement
53	12.12 Modifications to the Benefits Strategy	Nalcor, Provincial	NR-Energy Policy	HRLE, INTRD, LAA, EDU	INTRD – in partnership with NR
54	13.1 Sheshatshiu social effects mitigation	Nalcor, Provincial, Federal	HCS-LGH	HRLE, LAA	HCS - would LAA or IGA lead the development of MOU?
55	13.2 Social effects needs assessment and research	Provincial	HCS-LGH	HRLE, EDU, LAA	HCS - the recommendation for a needs assessment is consistent with HCS-LGH's presentation to Panel.
56	13.3 Worksite measures to address addictions issues	Nalcor	HCS-LGH		
57	13.4 Variety of work schedules	Nalcor	LRA		HRLE says this should be done by Labour Relations Agency
58	13.5 Health and social services	Provincial	HCS-LGH	HRLE	HCS - will initiate discussions with Nalcor to identify demands as a result of this project (needs assessment) and identify Nalcor's

Matrix for Response to Recommendations (October 27, 2011)

					contribution to mitigation measures through MOU.
59	13.6 Capacity agreement with Happy Valley-Goose Bay	Provincial, Nalcor	MA	INTRD	INTRD - links to programs/dev. Strategies MA - has expertise in evaluating municipal infrastructure and identifying gaps along with evaluating alternatives for proposed infrastructure.
60	13.7 Funding for infrastructure mitigation	Nalcor, Provincial	MA	INTRD	INTRD - links to programs/dev. Strategies. MA - could assist with respect to municipal infrastructure.
61	13.8 Low-income housing strategy	Nalcor	NLHC	HRLE, MA	NLHC contacted Sep 22. Morley Linstead (t. 724-3293) to reply. MA – may be a limited role. Municipal Plan Policies and the Town’s regulatory controls can assist in promoting affordable housing.
62	13.9 Possible requirement for consumption advisories in Goose Bay or Lake Melville	Nalcor	HCS-LGH	LAA	
63	13.10 Consumption advisory implementation	Nalcor, Federal	HCS-LGH	LAA	
64	13.11 Human health and mercury monitoring	Nalcor, Provincial, Federal	HCS-LGH	LAA	HCS-LGH will collaborate with Nalcor on this recommendation.
65	13.12 Dietary surveys	Nalcor	HCS-LGH	LAA	HCS-LGH will collaborate with Nalcor on this recommendation.
66	13.13 Research on mercury in country food	Provincial, Federal	LAA	HCS-LGH	LAA - identified in rec. but does not have resources to do study. LAA will provide support if needed but should be HCS.
67	14.1 Emergency preparation for the possibility of a dam failure	Nalcor	MA-FES	ENVC-WR	MA-FES - has expertise in emergency planning and mitigation. ENVC-WR – Bullets 1 & 2
68	14.2 Compensation for losses in the event of a dam failure	Provincial	JUS	MA-FES	MA-FES - manages current disaster recovery funding programs.

Matrix for Response to Recommendations (October 27, 2011)

					JUS – Donna Ballard (Civil Law)
69	14.3 Seismic testing	Nalcor	DNR-Petroleum		
70	15.1 Authorizing regulation	Provincial	ENVC-EA	ENVC-Wildlife & WR, GS, MA-FES	GS (GSC & OH&S) - permits & inspections MA-FES - Emergency Response Plans ENVC-WR permits & inspections
71	15.2 Federal-provincial joint regulatory plan	Provincial, Federal	ENVC-EA	ENVC-Wildlife & WR, GS, MA	GS (GSC & OH&S) - permits & inspections MA - certain land use regulations may come under the purview of the Urban and Rural Planning Act. ENVC-WR permits & inspections
72	15.3 Long-term funding for environmental management from Nalcor	Nalcor	NR-Energy Policy	ENVC-WR	
73	15.4 Long-term funding for environmental management from government departments	Provincial, Federal	FIN	ENVC-EA, Wildlife & WR, INTRD	INTRD - socio-economic mitigation commitments.
74	15.5 Lower Churchill Project Monitoring and Community Liaison Committee	Provincial, Nalcor	ENVC-EA	ENVC-Wildlife & WR, INTRD, LAA, MA	INTRD - (Ec./Bus. Dev) + REDB MA – could provide advice to such a committee on Municipal responsibility.
75	15.6 Project-specific effects monitoring programs	Nalcor, Federal	ENVC-EA	HRLE, ENVC-Wildlife & WR, INTRD	INTRD - (Ec./Bus. Dev)
76	15.7 Adaptive management	Nalcor, Federal	ENVC-EA	ENVC-Wildlife & WR	
77	15.8 Complaints resolution	Nalcor	ENVC-EA	ENVC-WR	
78	15.9 Environmental review in the event that construction of the second generation facility is delayed	Provincial, Federal	ENVC-EA		
79	15.10 Local hiring for environmental management work	Nalcor	NR-Energy Policy	HRLE, EDU	
80	15.11 Government response to Panel report	Federal, Provincial	ENVC-EA		
81	15.12 Decommissioning	Nalcor	ENVC-WR		
82	16.1 Regionally integrated cumulative effects assessment	Provincial	ENVC-EA	ENVC-(Wildlife, LM & PNA & WR), LAA, MA	ENV (EA & Wildlife) - established a Cumulative Effects & Land Use working group – this may be form to discuss. This is a sub-group off of ILUC. LAA - identified in rec. to work with ENVC. The Panel noted it might be under mandate of Northern Strategic Plan.

Matrix for Response to Recommendations (October 27, 2011)

					MA - would be a part of monitoring cumulative impacts on communities.
83	16.2 Establishment of protected areas	Provincial	ENVC-PNA	ENVC-Wildlife	