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UNCLE GNARLEY

Opinions On Newfoundland Politics That Bite

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WHO TAKES ED
MARTIN SERIOUSLY,
ANYWAY?

FORENSIC AUDIT:
NALCOR IGNORED BIG
EARLY WARNING
SIGNS

LAW SCHOOL
IGNORES PROVINCE'S
FISCAL POSITION

WHEN POLITICIANS
DON'T EVEN KNOW
WHAT THEY DON'T
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BEWARE FEDERAL
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SECOND FORENSIC
AUDIT REPORT:
EVIDENCE OF
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WILL THE PUB GO FAR
ENOUGH ON RATE
MITIGATION?

POLL CLEAR AS MUD
BUT LIKELY CANCELS
SPRING ELECTION

Monday, 25 June 2018

TONED DOWN, REDACTED WITH DELETIONS: DID NALCOR WRITE THE INDEPENDENT ENGINEER'S REPORT? (PART II)

The following is Nalcor VP Gilbert Bennett sharing, in his words, a "mark-up" of the very first Independent Engineer's Report on the Muskrat Falls project. Bennett is sending the email to Ed Martin, Paul Harrington, James Meaney, and PR types Karen O'Neill and Dawn Dalley. The email reads:

Hello All:

Attached is a mark-up of the November 29 report. Proposed redactions are highlighted in red. Once we're all good we can lock these in. Once Jim has circulated the appendixes from the November 29 report, I will update accordingly for the full package.

If you have any changes, please let me know...

Regards,

Gilbert

First, just in case you missed it, what Gilbert Bennett is in possession of and is "marking-up" and seeking "changes" in is not a Nalcor Report. It is, ostensibly, the "independent" work of the so-called "Independent Engineer" for the Muskrat Falls project. The year was 2013. In all, there have been a total of 20 IE reports made public since that time. We can reasonably assume that Nalcor has had a hand in each one.

Secondly, the email above (see below for digital copy) is dated 04/07/2014 and a second similar email is dated 03/01/2014. Evidently, Nalcor had the draft Independent Engineer's

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UNCLE GNARLEY READS



peckford42

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Bribing and Cheating
Your Way Into
College
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The Sir Robert Bond Papers

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1 week ago

Tom Adams

Energy - ideas for
a smarter grid
Where's the
"Geothermal
Revolution" (or even
the GSHP
Revolution)?
3 months ago



BAY DU NORD:
TURNING GOOD NEWS
INTO DISBELIEF

WERE SNC LAVALIN
TROUBLES
OPPORTUNISTIC FOR
NALCOR?

About Des Sullivan



Des Sullivan

St. John's, Newfoundland
and Labrador, Canada

Uncle Gnarley is written by Des Sullivan, of St. John's. He is a businessman engaged in real estate, retail and development companies. A Director of Sullivan Capital Corporation, he is a former Executive Assistant to Premier's Frank D. Moores (1975-1979) and Brian Peckford (1979-1985). He also served as a Part-Time Board Member on the Canada-Newfoundland Labrador Offshore Petroleum Board (C-NLOPB). Uncle Gnarley permitted the use of his highly regarded name provided he could have full access to state his own rather unequivocal opinions. (A more detailed Profile of Uncle Gnarley is described in the very first Post entitled "Uncle Gnarley is alive and well" found on this site. Sullivan is a firm advocate of sound fiscal management by the provincial government and intends to use this Site as a forum for commentary on the major issues of the day. Says Sullivan,

Report in its possession for more than three months.

But that is not the biggest surprise.



Executive V-P Nalcor Gilbert Bennett

Nalcor refers to the IE's Report dated November 29, 2013 which it is reviewing, redacting and changing. Note in the digital image below where Nalcor gives the date of the final Report as December 30, 2013. At first, one might be led to think that this is a clerical error. It is not. December 30, 2013 is the date clearly shown on each page of the Report provided by Nalcor under ATIPPA.

It seems that Nalcor has been caught editing the Report and giving it a new proposed release date. Possibly it was one of the few instructions the IE felt they could ignore?

The official report - the one issued publicly by the Independent Engineer - is dated not December 30, 2013 but November 29, 2013. This is Nalcor's December 30, 2013 version. This the IE's November 29, 2013 published version. Click on the links and see it for yourself.

This is a matter of great concern. Why? It seems that someone seeking to conceal the fact that changes to the IE's report were made and that those changes were of the IE's origin

The Rogue
Bayman
It's Time to Have a
Talk About Rural
Newfoundland &
Labrador
1 year ago



John Gushue ...
Dot Dot Dot
Inspector Chalmers
goes to the land of
Pulp Fiction
1 year ago

RANT AND ROAR
The Trial
3 years ago



NL Blogger's Daily

Muskrat Falls - I
Believe in the
Power of
Newfoundland and
Labrador

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 - ▶ September (9)
 - ▶ August (10)
 - ▶ July (5)
 - ▼ June (6)
 - CHES CROSBIE
TESTED:
"MISTAKE" TO
REPLACE
MADNESS?...

TONED DOWN,
REDACTED
WITH
DELETIONS:
DID NALCOR
WR...

3/14/2019

UNCLE GNARLEY: TONED DOWN, REDACTED WITH DELETIONS: DID NALCOR WRITE THE INDEPENDENT ENGINEER'S REPORT? (PART II)

"Newfoundland and Labrador inspires debate on a variety of issues, a veritable Muskrat Falls of opinion". Readers are invited to leave their opinions, too. Uncle Gnarley will post every Monday, and more often as events warrant.

[View my complete profile](#)

and not of Nalcor.

We might well ask: how can oversight be independent if the language and content is modified by the very people under scrutiny — their decisions, analysis and conclusions?

Why should the public view the Office of the Independent Engineer as a source of integrity, having failed to disclose Nalcor's direct involvement in the crafting and redaction of their report?

Why did the Government of Canada allow this relationship to occur and very likely persist?

Isn't this just one more proof of the complicity of the Federal Government, with Nalcor, in the creation of a debacle that has the province on its economic knees?

(The correspondence exhibited below and the December 30, 2013 copy of the IE Report were obtained under ATIPPA by the person I have often referred to as "citizen sleuth". I am very grateful for the research he has given me in the interest of better transparency in the administration of public affairs.)

NALCOR
ALLOWED TO
SECRETLY
CENSOR
REPORTS OF
INDEP...

NORTH SPUR:
THE
ELEPHANT IN
THE ROOM

"EXTREMELY
FRUSTRATED"
PREMIER
GOES TO
SNC-
LAVALIN...

LIBERAL PARTY
WILL IGNORE
THE ABACUS
POLL AT
THEIR...

- ▶ May (8)
- ▶ April (12)
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- ▶ January (12)
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- ▶ 2016 (98)
- ▶ 2015 (88)
- ▶ 2014 (90)
- ▶ 2013 (106)
- ▶ 2012 (64)

3/14/2019

UNCLE GNARLEY: TONED DOWN, REDACTED WITH DELETIONS: DID NALCOR WRITE THE INDEPENDENT ENGINEER'S REPORT? (PART II)

Suggested redactions to IE Report - November 29

Gilbert Bennett to: Ed Martin, Paul Hamington, James Meaney, Dawn Dalley, Karen O'Neill

04/07/2014 01:05 PM

Hello all,

Attached is a markup of the November 29 report. Proposed redactions are highlighted in red. I have not applied them, so we can amend as necessary. Once we're all good, we can lock these in. Once Jim has circulated the appendices from the November 29 report, I will update accordingly for the full package.

If you have any changes, please let me know...

Regards,

Gilbert

This document (in redacted form) is available on our website at:
<https://muskratfalls.nalcorenergy.com/newsroom/reports/> It is not the final report. The final report dated December 30, 2013 is included in this package of records.

IE_Report_2013_11_29_Redactions_Marked_Not_Applied.pdf



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Lower Churchill Management Corporation
a Nalcor Energy company
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3/14/2019

UNCLE GNARLEY: TONED DOWN, REDACTED WITH DELETIONS: DID NALCOR WRITE THE INDEPENDENT ENGINEER'S REPORT? (PART II)

Suggested redactions for IE Report

Gilbert Bennett to Paul Harrington, Ed Martin, Dawn Dalley, Derrick Sturge, James Meaney 03/01/2014 08:03 PM

Hello all,

I have taken a run through the IE report, and have marked areas of the report that I feel should be redacted prior to release. These mirror Paul's suggestions, and I have added a couple of my own.

Comments are invited...

G


2013_12_30_IE_Report.pdf

 **nalcor**
energy
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As distasteful as it is, we are used to Nalcor's complicity. Hopefully, the Commission of Inquiry headed by Judge Richard LeBlanc will put bones on this and other issues.

It is not yet clear if the IE will be called to testify, but that Office should be.

The IE's report disclaimer states that it "was prepared for the exclusive use of Nalcor, Her Majesty the Queen in Right of Canada, as represented by the Minister of Natural Resources..." Disconcerting is that the IE doesn't also say that its conclusions went through Nalcor's washing machine.

Gilbert Bennett's free-wheeling language — "once we're all good we can lock these in" — is certainly proof, if any more were needed, of the Crown Corporation's determination to keep key information regarding a failed project under wraps.

The Office of Independent Engineer was established under the conditions of the "Term Sheet" for the Federal Loan Guarantee. It is responsible to the Federal Government. But the group that performs that role — MWH Canada Inc. — was selected by Nalcor under a long-term contract, and paid by Nalcor too.

It is the perfect set-up for a potential conflict of interest. For that reason, if the IE was oblivious to that potential conflict, or didn't care, the very fact that the information is formally released to the public with the knowledge of the Government of Canada obliges it to give fair warning to all, including the parties for whom the IE's reports were prepared.

Let's not kid ourselves. For Nalcor's Gilbert Bennett to have had access from the very beginning and the right to engage in the "mark-up" of the report, including a great many redactions, suggests that the Office of the Independent Engineer was likely never intended to be "independent".

Not just the Nalcor Vice-President but the President and CEO, the VP Finance, the Construction Manager and the heads of Nalcor's PR department (O'Neill and Dalley) were all invited to subject the document to editing and redaction.

What a cozy arrangement for Nalcor!

Just as former Premier Tom Marshall was content to ascribe "Oversight" to a Provincial Government Committee that provided anything but, the Federal Government was equally content to include "Independent" in the naming of the oversight engineering Office for the project. Except that neither offered oversight or independence.

One has to ask: on what basis does the group that runs Nalcor deserve such deference?

Why would MWH Canada Inc. condone the creation of the perception of "independence" when Nalcor's involvement prejudiced the integrity of the reporting process?

Likely the public would accept that very select "commercially sensitive" matters should be redacted. But that is not the same as putting Nalcor in charge of editing the document and keeping from the public knowledge of invited interference.

Consistent with the norms associated with concepts of transparency and integrity, of course the public would want to know that that consent was granted, including how often, and the reason for each one. That would have required that MWH Canada give disclosure at the outset of the report. Their failure to do so is not acceptable, even if the public is not on their client roster.

What about specifics?

If the reader conducts a page by page comparison between the two versions of the report, they will find that entire sections have been rewritten, new sections added (some of them redacted, too), and others omitted in the published version.

Were all of them - there were a great many - performed by Nalcor? I don't know. It is not as

if Nalcor ever came running to confess their incompetence or complicity except when they are running out of money. That said, what is clear is that some sections of the Report disappeared altogether; the IE's concerns over Nalcor's methodologies and analysis were toned down or changed outright in the final published version.

A few examples:

The last sentence in paragraph 4.2 contained a proposed Nalcor redaction. It read in part: "MWH considers all of the CH0006 (Bulk Excavation) work to have been completed satisfactorily and conforms to industry standards... Nalcor has advised that there is a pending acceleration claim, which may have an effect on the final contract price."

The paragraph was completely omitted in the published version.

In the case of Table 5-2 **Expenditures to Date versus the DG3 Capital Cost Estimate** (the title given in the published report) the Nalcor write-up version showed no proposed redactions but the published version is substantially redacted, suggesting either that Nalcor had more than one opportunity to change the document or that more than one version was on Nalcor's operating table — which is likely, given the number of Nalcor officials with access to the document.

The December 30th draft of **5.1.3 Defined DG3 Contingency Analysis** stated:

"... the IE is of the opinion that the calculated overall 6 percent scope contingency representing an adder of \$368M to the project budget is not conservative relative to our legacy experience with similar remote heavy-civil construction endeavors, and is, therefore, judged to be somewhat optimistic. The IE typically sees scope or tactile contingency allowances in the range of 8 percent to 12 percent at comparable DG3 stage gates. A mitigating circumstance for the current LCP budget is the fact that cost certainty has been achieved for the awarded-to-date work (See Section 5.1.4) that provides a rationale to carry a reduced contingency allowance."

In contrast the published account stated:

"... the IE is of the opinion that the calculated overall 6.7 percent scope contingency is aggressive relative to our legacy experience..." though "the IE would advocate for adjustment of the project contingency fund", suggesting, after some redaction, that "[t]he IE believes the drivers on contingency will be varied and not entirely predictable as the project unfolds..."

It is not hard to discern the differences in tone and emphasis after the Nalcor editors got their black pencils in gear.

The original 5.1.4 **Reconciliation of the DG3 Capital Cost Estimate to Actual** read:

“To account for uncertainty in the project’s cost opinion, stakeholders should be aware that a range of probable outcomes is possible. Reconciliation of the project’s DG3 capital cost estimate to actual tendered amounts up to mid-November 2013 provides a means for interested parties to trend the current budget and understand variance relative to DG3 metrics.”

Again, in contrast, the published report was far more understated.

It read: “Estimated capital costs included in the DG3 estimate are costs based on 2012 values. These values were escalated in the Nalcor financial models to reflect expected cost bases in the years of construction.” (p. 85)

That is a significant departure from the original copy; any gravitas expressed as to the reality of Nalcor’s cost position has been purged.

Engineers will tell you that “trending” of costs is the basis of forecasts once a project is under way. Presumably Nalcor didn’t like that phraseology because Ed Martin’s public utterances did not reflect the terrible trend portended by the Tender results piling up.

At the time of the IE’s first report, it would have had access to a good many confirmed Tender awards and been able to compare them with Nalcor’s budgeted figures. The Office ought to have sounded the alarm giving truth to the concerns about cost overruns. Instead, they were more preoccupied with giving Ed Martin and Gilbert Bennett, among others, plenty of time to obfuscate the real story unfolding.

Overall, comparing the original and final report of the IE requires one to sustain a level of nausea required for the Manitoba Hydro International (MHI) and Navigant reports. They were the Consultants hired by Nalcor (following the PUB’s refusal to endorse the project based upon DG2 estimates) to assess Nalcor’s DG3 assumptions, estimates and analysis and found, with few exceptions, everything to be “reasonable”. Ultimately those reports were horribly wrong; yet they fuelled the process, if any were needed, allowing Nalcor and the Dunderdale Government to hurry project sanction.

Elsewhere in the IE’s report, Part 5.2 was completely changed. For example 5.2.2 **Allowance for Contractor Bonus** was added and then completely redacted.

5.2.3 **Highlight Sensitive and Critical Areas** was also added and partly redacted.

Contingency was, in the version given to Nalcor, a major issue addressed by the IE. But it got substantially toned down in the final draft, too.

3/14/2019

UNCLE GNARLEY: TONED DOWN, REDACTED WITH DELETIONS: DID NALCOR WRITE THE INDEPENDENT ENGINEER'S REPORT? (PART II)

The first IE Report contained this nugget under **Price Risks** in part 5.2.4, which should not go unreported. It states: "The risk assessments they [Nalcor] conducted... appear to be carefully performed and were taken into consideration in their economic analysis."

Of course, it is now well known that Nalcor hid the SNC-Lavalin Risk Assessment Report detailing a plethora of potentially large-cost Risk issues. The EY Interim Report, too, expressed deep concern that Nalcor had disregarded major strategic and tactical risks.

This disclaimer, inserted in the IE Report, should give the reader cause for pause when the current state of the Muskrat Falls project is considered. That it was "based on information supplied by Nalcor...", the IE judging all of that to be "reasonable" gives new meaning to the common usage of the phrase: "garbage in, garbage out".

The purpose of this report (referred to herein as the IER, or Independent Engineer's Report) is to provide IE's opinions to support the financing of Nalcor's portion of the LCP using long-term bonds that will be guaranteed by Canada's best-in-the-world credit worthiness, rated AAA. To that end, this report presents professional opinions based on information supplied by Nalcor and studies performed by them and their consultants, which was reviewed by the IE that the design is satisfactory, estimated construction and operations costs are reasonable, that the estimated construction schedule is reasonable, and that projected financial results of operations will generate sufficient net revenues to repay the debt, including revenues to meet debt service coverage requirements as well as to properly operate and maintain the LCP facilities.

As it stands, the public is none the wiser — the Independent Engineer (and the Government of Canada, too) having failed to perform their most basic obligation: to disclose, to inform at the very least the group identified as the intended recipients — the "rating agencies, lenders, guarantors, and other organizations that may be involved in providing financing for LCP..."

At least the Federal Loan Guarantee secures the bankers. Likely they won't care how many versions of IE reports Nalcor has scripted. The public is not so lucky.

Don't expect the Premier or any of the seven Federal MPs to make inquiries or to give explanations as to the behavior of the IE and Nalcor.

Acquiescent politicians and public servants are a virus on transparency and democracy.

'Fake' is not limited to America, either. It threatens institutions and democratic government everywhere self-interest is deemed paramount. Elected and non-elected alike

are complicit; an uninformed public mere pawns.

That is why you will likely never hear another word about what you have just read, or of the other nineteen reports that were subjected to Nalcor's censors.

Of course, continued silence by the IE may confirm the doubts that we fear most.

Posted by Des Sullivan at Monday, June 25, 2018

Reactions: funny (1) interesting (0) informative (0)



Labels: 2013 Report Muskrat Falls, Independent Engineer November 29, Nalcor

64 comments:

Tor Fosnaes 25 June 2018 at 07:54

The November report is locked into some online thing requiring registration. Can you make it available as the redacted version?

Reply Delete

Replies



Des Sullivan 25 June 2018 at 09:02

Tor: I checked and I am not experiencing that problem and have not from the beginning using Scribd. If it is a frequent problem perhaps readers will let me know and I will look at a new platform for this purpose.

Delete

Reply



Robert G. Holmes 25 June 2018 at 08:14

Like Site C, Muskrat is a Shakespearian Tragedy;

<https://thetyee.ca/Culture/2018/06/25/Site-C-Shakespearean-Tragedy/>

I'm trying to find the characters in my Grade 11 English Notes. Smallwood, Williams, Dunderdale, Ball, and now Crosbie, who seems to lump PC's and Liberals as Tweedle Dums??

I need an aspirin please.

Reply Delete