



Government of Newfoundland and Labrador  
Department of Municipal Affairs and Environment  
Office of the Deputy Minister

FEB 01 2019

Mr. Peter Ralph  
Solicitor  
Department of Justice and Public Safety  
P.O. Box 8700  
St. John's, NL A1B 4J6

Dear Mr. Ralph:

**Re: Geotechnical Investigation and Environmental Assessment of the  
Labrador-Island Link**

In response to your three questions regarding the environmental assessment process and the ability for Nalcor to conduct geotechnical investigations for the Labrador-Island Transmission Link project (registration #1407), I offer the below responses.

- 1) *What limits did environmental assessment legislation place on Nalcor's ability to conduct geotechnical investigation before the Labrador-Island Link was released from environmental assessment?*

Part III of the *Environmental Assessment Regulations* titled "Designated Undertakings and Exceptions" sets out what projects (or undertakings) require environmental assessment. For example, section 34(1)(d) of the *Regulations* states that an undertaking engaged in electric power generation and the provision of structures related to that power generation, including the construction of hydroelectric power developments with a capacity of more than one megawatt shall be registered. In addition, section 34(2) of the *Regulations* states that an undertaking engaged in the construction of new electric power transmission lines or the relocation or realignment of existing lines where a portion of a new line will be located more than 500 metres from an existing right of way shall be registered. Notwithstanding Part III of the *Regulations*, if potentially significant environmental effects are indicated, the Minister may require registration of any proposed undertaking. The *Regulations* are clear that the Lower Churchill project – both the hydroelectric power development and the transmission line – required assessment.

Section 68(1) of the *Environmental Protection Act* states that "A licence, permit, approval or other document of authorization issued under another Act pertaining to an undertaking shall not be issued until the undertaking has been exempted or released under this Part." This approach ensures that all considerations are taken into account and the final project plan approved prior to project specific approvals. Should issues be raised during the environmental assessment, proponents have an opportunity to make changes to project



plans prior to submitting required licence, permit, or approval applications. This legislation was applicable to the Labrador-Island Transmission Link project.

This Department acknowledges that to complete the required project planning to determine project feasibility and prepare environmental assessment documentation, proponents need to conduct baseline analysis. In that regard, site research and analysis to a reasonable amount is supported. For example, for projects requiring environmental assessment, permits have been issued for test water wells to confirm hydrogeology but permits would not be issued for production sized water wells.

Testing or investigation required to prepare the information submitted for an environmental assessment can be reviewed and discussed to determine what is reasonable to complete in advance of registration, without compromising the integrity of the assessment process. For example, section 33 of the *Regulations* defines that undertakings engaged in mining shall be registered, but the *Regulations* do not define mineral exploration as an undertaking. The preparatory work for mining, including temporary trails, drilling, and sample collection is referred to environmental assessment for consideration, but generally does not require assessment. As a result, proponents undertaking investigation and onsite testing prior to the submission of an environmental assessment for a mine or large quarry. The instances when mineral exploration has required environmental assessment has been when the exploration activity included project components, such as roads, that were undertakings themselves, which required assessment as defined by the *Regulations*.

Nalcor describes in the EIS geological and drill program investigations completed to support their proposed project design. For example:

- The EIS, page 2-95 states “Information on geology, bathymetry, oceanography, ecology, fisheries, archaeology and other factors were gathered and used as inputs to the survey programs, which has involved detailed side scan and multibeam sonar surveys and sub-bottom profiles, underwater video surveys, drilling programs and other studies to better understand the geological and marine environments in the region. This eventually led to the identification and evaluation of a number of potential cable landings sites on both sides of the Strait, as well as several marine crossing approaches and corridor options, as described below.”
- The EIS, page 2-100 states “Over the past number of years, Nalcor has completed detailed analysis and evaluation on both of these potential alternatives. This has included extensive on-land investigations and marine surveys, detailed technical and economic assessments, risk analyses, and the engagement and advice of national and international experts in these techniques and recent experience with them. Based on extensive analysis and evaluation, and serious consideration of both options, Nalcor has decided to proceed with the seabed crossing approach for the Project.



- The EIS, page 2-102 states “The current Project concept would see the use of “shore electrodes” at locations on the Labrador side of the Strait of Belle Isle and Conception Bay where the electrode elements will be placed within a wharf or breakwater-like structure installed adjacent to the shoreline. These locations were identified and selected through an extensive planning and analysis exercise that included consideration of a range of technical, economic and environmental factors and considerations, including: proximity to the proposed converter 15 station site; existing site access and suitability, including any previous development at the site; local infrastructure presence and requirements; detailed electric field simulations using information on required electrode duty, safe voltage gradients, local soils and geology, and anticipated resistivities.”

2) *What limits did environmental assessment legislation place on Nalcor’s ability to conduct geotechnical investigation after the Labrador–Island Link was released from environmental assessment?*

Section 67 of the *Environmental Protection Act* states that undertakings may “be released subject to terms and conditions”. Additionally section 68 of the *Act* states that “Where an undertaking has been exempted or released under this Part, the minister may require the proponent to carry out environmental monitoring and rehabilitation studies and programs in order to determine the effectiveness of mitigation measures, compliance with terms and conditions applicable to the release and to restore the affected environment to ecologically and socially acceptable levels.” This legislation was applicable to the Labrador-Island Transmission Link project.

The June 20, 2013 release of the Labrador-Island Transmission Link project included conditions of release. The first required the proponent to adhere to commitments made in their documents (e.g. Environmental Impact Statement). No conditions of release were specific to geotechnical investigations. However, conditions related to the preparation and approval of Environmental Protection Plans (EPP) and Environmental Effects Monitoring Plans (EEMP), and oversight through an Environmental Monitor would have considered geotechnical work, such as drilling and blasting. For example, page 38 of the Strait of Belle Isle Marine Crossing EPP states “The environmental concerns associated with HDD [Horizontal Directional Drilling] include surface disturbances, disposal of drilling fluids and cuttings, frac-outs, management of fuel or other hazardous materials, generation of dust, noise, and potential effects on terrestrial and marine environment.” Furthermore, the responsibilities of the Environmental Monitor included monitoring the biophysical components related to the project for the duration of drilling and cable installation activities at the Shoal Cove, Newfoundland, cable landing site in the Strait of Belle Isle.

Geotechnical work, in and of itself, is not identified as an undertaking in Part III of the *Environmental Assessment Regulations* titled “Designated Undertakings and Exceptions”.



As a result, new geotechnical work identified by Nalcor as required to be completed after the Labrador–Island Transmission Link project was released from environmental assessment would have needed to be exceptional to the point of the minister using discretionary powers identified in the *Regulations* to require any further environmental assessment. Once released, the project was permitted to proceed, including conducting geotechnical work associated with the project.

3) *Was there any process, short of a full release from environmental assessment, that would have allowed Nalcor to undertake additional testing before the Labrador–Island Link was released from environmental assessment? What would the details of such a process be?*

Testing or investigation required to prepare the information submitted for an environmental assessment can be reviewed and discussed to determine what is reasonable to complete in advance of registration, without compromising the integrity of the assessment process, as described in our answer to question #1.

The proponent describing the need and scope of the additional testing would initiate a review and discussion. Should Nalcor have identified the need to conduct testing before the release of the Labrador-Island Transmission Link project from environmental assessment, the Department could have considered the request.

I trust that the above answers your questions. If you require additional information, please contact Dr. Susan Squires at (709) 729-3016 or by email at [susansquires@gov.nl.ca](mailto:susansquires@gov.nl.ca).

Regards,

A handwritten signature in black ink, appearing to read "JC", with a long horizontal stroke extending to the right.

Jamie Chippett  
Deputy Minister