

Reg No. 1305

SEP 11 2016

Honourable Daryl Shiwak  
Minister of Lands and Natural Resources  
Nunatsiavut Government  
25 Ikajuktauvik Road  
PO Box 70  
Nain NL A0P 1L0

Dear Minister Shiwak:

**Re: Appeal on Human Health Risk Assessment Plan (HHRAP)  
Lower Churchill Hydroelectric Generation Project**

I write in reply to your appeal received on August 12, 2016 for the above plan.

The plan was approved on June 14, 2016 following consultation with Health Canada and Health and Community Services as well as consultation with Aboriginal groups. Approval of the plan was subject to a condition, as outlined in my letter to you dated June 21, 2016. Your appeal has been reviewed in consultation with Health Canada, Fisheries and Oceans Canada, Environment and Climate Change Canada, and the Department of Health and Community Services.

You have stated the four grounds for the appeal as follows:

- (a) the Decision fails to act on the new scientific information which shows that the Project will have significant impacts on methylmercury concentrations in the Lake Melville ecosystem and increased Inuit exposure to methylmercury;
- (b) the Project will impair or damage the Lake Melville environment and have adverse effects on Inuit, including Inuit health and culture;
- (c) the Decision fails to require measures that will ensure risks associated with methylmercury concentrations in the environment as a result of the Project are properly mitigated, monitored and managed; and
- (d) the Decision, by approving the HHRAP before the results of the Human Health Risk Assessment (HHRA) are complete and can be assessed and acted on, is premature and an error in law.

A response to the four grounds you have raised is outlined below. As context for our responses it is important to understand the scope and objective of the HHRAP. The purpose of the HHRAP is to outline key activities that will occur in conducting a baseline pre-flooding Human Health Risk Assessment (HHRA). The HHRAP is therefore essentially a framework, or workplan, intended to describe a process to ensure that the HHRA is conducted pre-flooding in a manner that includes the steps and considerations described within the HHRAP.

Regarding (a), the process and tasks outlined in the HHRAP are intended to guide the measurement of exposure to mercury, methylmercury or any other chemical/contaminant that could affect human population health downstream of the Muskrat Falls dam, and therefore, are not dependent on the level or change in conditions that would happen from flooding the reservoir. Notwithstanding this point, the Schartup et al study was discussed at the March workshop wherein the HHRAP was also discussed, and, as stated in my letter of June 21, 2016, this workshop was one of components informing my decision on the HHRAP. The processes outlined in the HHRAP for the preparation of a HHRA are not dependent on the extent to which methylmercury increases from predicted levels, as the measurement approach for baseline exposure remains the same, as does the need to consider data arising from other monitoring plans and the need to consult regulatory experts on mitigations.

Regarding (b), it was recognized throughout the environmental assessment that the project had the potential to create significant environmental impacts, and that methylmercury was one of those impacts. That is why the project was released subject to numerous conditions. The Nunatsiavut Government (NG) was consulted through the environmental assessment (EA) of the project and was funded to participate in the EA. Post EA release, the NG has been consulted on all provincial authorizations needed for the project, including the HHRAP, notwithstanding the finding in 2015 in *Nunatsiavut v. Newfoundland and Labrador* (Department of Environment and Conservation) that permitting consultation was not a requirement of the Labrador Inuit Land Claim Agreement. That case also indicated that permitting consultation was not a means to revisit the EA. Rather the focus of permitting consultation is on the activities which are the subject of the permit itself. Therefore, we must turn to the HHRAP itself to fully and fairly assess the views of the NG on the HHRAP. An objective of the HHRAP is to outline a process to ensure Inuit health protection. The HHRAP is designed to describe a process to determine pre-flooding conditions for the downstream area. Methylmercury levels are predicted to increase as a result of flooding the reservoir and then decrease over time (approx. 20-25 years) to background levels. The levels of increase would not change the processes and tasks for conducting the HHRA that are described within the HHRAP.

Regarding (c), this is outside the scope of a HHRAP. The role of the HHRAP in itself is not one of either mitigation or monitoring. It does, however, provide a process for conducting the HHRA, which will outline suitable remedies or mitigations based on consideration of its baseline and other monitoring activities associated with the project, in consultation with the appropriate regulatory agencies.

Regarding (d), the HHRAP describes how the HHRA is to be conducted and therefore must come first. Page 21 of the HHRAP clearly outlines the core tasks and activities that the HHRA will include. In approving the HHRAP, it is my expectation that the HHRA will be conducted in the manner outlined in the HHRAP.

In conclusion, the appeal by the NG does not contain any technical issues, concerns or criticisms of the HHRAP itself that would suggest the need to revise the original decision. It raises many arguments that are outside the scope of the HHRAP, and while they are arguments which government is currently considering in follow up to the August 4, 2016 Workshop, they

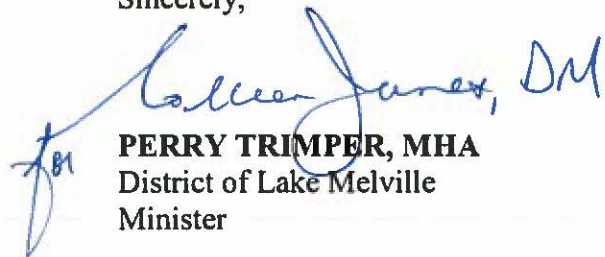
are not relevant to the decision to approve the HHRAP.

The detailed letter sent to you on June 21, 2016, explained, in the first 1.5 pages, the key elements which informed the decision to approve the HHRAP. I have attached a copy for your convenience. I have carefully considered the material filed by the NG in support of its August 12, 2016 appeal and wish to advise that my decision stands.

On the broader issues raised in your appeal letter please be advised that these are being examined as part of our ongoing assessment arising from the recently held scientific workshop.

If you have any questions concerning this appeal, please contact Mr. Bas Cleary, Director, Environmental Assessment Division, at (709)729-0673.

Sincerely,



**PERRY TRIMPER, MHA**  
District of Lake Melville  
Minister

Attachment

cc: Hon. Dwight Ball, Premier  
Hon. Dominic LeBlanc, Minister of Fisheries and Oceans Canada  
Mr. Stan Marshall, CEO Nalcor Energy  
Mr. Todd Russell, President, NunatuKavut Community Council  
Grand Chief Anastasia Qupee, Innu Nation

Assessment Committee