

Buckle, Joy

From: Gover, Aubrey
Sent: Monday, April 8, 2019 6:02 PM
To: Letto, Graham; Coady, Siobhan; Edmunds, Randy
Cc: Chippett, Jamie; Chaytor, Kerry
Subject: IEAC
Attachments: Letter to Indigenous Leaders from Premier Ball Re IEAC April 8_2019.pdf

Importance: High

This is to advise you that the attached letter was just emailed to the three leaders.

Aubrey Gover
 Deputy Minister
 Indigenous Affairs

T. 709-729-4776, F. 709-729-2129
 PO Box 8700, St. John's, NL
 A1B4J6

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Government of Newfoundland and Labrador
Office of the Premier

April 8, 2018

Mr. Johannes Lampe
President
Nunatsiavut Government
P. O. Box 70
Nain, NL
AOP ILO

Mr. Greg Rich
Grand Chief
Innu Nation
P. O. Box 186
Natuashish, NL
AOP 1A0

Mr. Todd Russell
President
NunatuKavut Community Council
P. O.Box 460, Str'C
Happy Valley-Goose Bay, NL
AOP ICO

Dear Indigenous Leaders:

Further to the recommendations of the Independent Expert Advisory Committee (IEAC), I am writing to request a meeting to discuss moving forward with the implementation of recommendations on monitoring and public health management and to discuss next steps pertaining to the recommendations related to an impact security fund and physical mitigation.

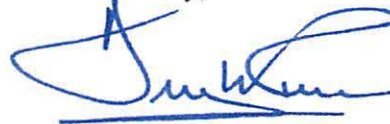
As you know, the recommendations pertaining to community-based monitoring and public health management included advice for an independent body to ensure a coordinated approach to implementation and oversight of these recommendations. Implementation of these recommendations is critical to inform discussions on pre-established benchmarks and associated responses as identified in the third recommendation from the IEAC. In order to move these aspects forward, the Deputy Ministers of Indigenous Affairs and Municipal Affairs and Environment will contact your representatives to establish this committee and to convene an initial meeting on a draft terms of reference for the committee's mandate. In order to facilitate this discussion, a preliminary terms of reference is enclosed for your review.

As you know, continuous monitoring for methylmercury in water samples has been ongoing since October 2016 and results considered by the IEAC up to the conclusion of its work. These samples were analyzed by Flett Laboratories, which was deemed by IEAC to be the most qualified to analyze methylmercury at the lowest detection limits, and results posted to the Department of Municipal Affairs and Environment website since that time. Given a significant

number of additional samples have been collected and analyzed since the work of the IEAC concluded, I have asked officials within the Department of Municipal Affairs and Environment to prepare a presentation on these data for our meeting which will include the additional analysis conducted by officials of the significance of these results. These results should be useful for our discussion of the recommendations related to the impact security fund and physical mitigation.

Officials from Indigenous Affairs will be in contact shortly to work on arranging a mutually agreeable time to discuss these important matters. I look forward to continuing our efforts to ensure that methylmercury concerns associated with the Muskrat Falls Project are addressed in collaboration with Indigenous and leaders.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Dwight Ball', written over a horizontal line.

Dwight Ball

Premier

Minister of Labrador Affairs

Minister of Intergovernmental and
Indigenous Affairs

Cc: Honourable Graham Letto, Minister of Municipal Affairs and Environment
Honourable Siobhan Coady, Minister of Natural Resources
Mr. Randy Edmunds, Parliamentary Assistant to the Premier

*Draft version date: April 2, 2019***MF Monitoring and Health Management Oversight Committee
Terms of Reference**Mission:

To provide recommendations for adapting a community-based methylmercury monitoring program from existing monitoring programs on key indicators such as water and relevant wildlife species; to provide ongoing oversight to the implementation of the monitoring program; and to develop pre-established benchmarks for the interpretation of monitoring results. This committee will develop advice for the local communities and pregnant women in particular on the importance of highly nutritional country food and to disseminate that public health information to the local population through the community or Indigenous organizations. In the event that the monitoring results exceed the monitoring benchmarks, an appropriate response and communication plan will be developed to provide ongoing dietary advice.

Mandate:

The protection of the health of the Indigenous and local populations will guide the work of the Monitoring and Health Management Oversight Committee (MHMOC). The committee may submit recommendations to the Minister of Municipal Affairs and Environment but other provincial and federal departments may use their departmental legislative powers to support and promote the mission of the MHMOC. With this in mind, the MHMOC mandate is:

- to use the best available peer reviewed science, professional expertise and Indigenous knowledge to build upon the already existing environmental monitoring programs, and to further strengthen statistically robust and community based monitoring for assessing methylmercury in key indicators such as water, fish, and other wildlife;
- to use the best available peer reviewed science, professional expertise and Indigenous knowledge to provide oversight to the implementation of the monitoring program;
- to work with the Indigenous and local population to establish benchmarks for the interpretations of monitoring results and to develop appropriate responses to those results in the form of pre-established actions including, but not limited to dietary advice, public health programming, and accommodation and compensation for impacted local and Indigenous populations;
- to communicate to the Indigenous and local populations that current practices related to consumption of country food and water are safe contrary to the current level of concern around methylmercury; and ;
- following inundation of the Muskrat Falls Reservoir, to work with the Indigenous and local population to ensure appropriate responses and communication is provided regarding dietary advice should methylmercury increases in country food be detected.

Objectives:

1. To review the existing surface water monitoring plan for methylmercury as well as all existing environmental assessment related to methylmercury monitoring as required of Nalcor with the

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goal of ensuring that results respond to Indigenous and local concerns.

2. To recommend modifications, where necessary, to any monitoring plan to ensure that it has sufficient statistical power for the interpretation of key indicators.

3. To recommend new or modifications to existing monitoring program components to allow for the hands-on participation of members of the Indigenous and local population to participate in the design, implementation and interpretation of monitoring programs through such actions as participation in sample collection, analysis, and recording of scientific observations.

4. To make recommendations to responsible provincial or federal ministers and regulators, to be identified by the Oversight Committee, using the best available peer reviewed science, professional expertise and Indigenous knowledge on monitoring and management measures to protect the health of the Indigenous and local population who harvest and consume country foods in the Churchill River and Lake Melville.

5. To develop standard advice that will be provided to individuals and the community at large on the benefits and safety of eating country foods including fish and seal and to choose foods such as salmon, brook trout, and smelt that are high in important nutrients, while minimizing exposure to potential methylmercury.

Structure:

Independent Chair

Selection & Criteria:

An Independent Chair will be selected, using a consensus based approach, by the Province Innu Nation, Nunatsiavut Government, and NunatuKavut Community Council. Each will recommend a maximum of two potential candidates for consideration and discussion. Nominations for the Independent Chair should meet the following minimum requirements:

- experience or familiarity with Indigenous issues and with affected groups, including having confidence of the Indigenous groups and communities in Labrador;
- expertise in implementing community health programs;
- some expertise in or knowledge of relevant science and research;
- neutrality with respect to the Lower Churchill Project/Muskrat Falls; and
- competency and experience in chairing similar committees.

Responsibilities:

The Independent Chair will be responsible for:

- organizing and presiding over meetings of the MHMOC
- compiling a list of experts that may be needed to contribute research on an as needed basis from time to time, to the MHMOC;
- reviewing existing research, directing any new research to be completed and recommending to the Responsible Ministers any monitoring and mitigation measures deemed necessary as a result of that research.
- coordinating between the representatives of the Indigenous groups and providing recommendations directly to the Responsible Ministers or Regulators;
- coordinating meetings, and reporting and communicating to the Indigenous governments and organizations and affected communities, e.g. regular updates via a web site created for the public to report on progress, newsletters, public sessions;
- the Independent Chair may delegate any of the above-listed duties, as may be

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appropriate, to any additional support staff, and will be responsible for supervising said staff in carrying out these and other tasks as may be assigned.

Oversight Committee

The Monitoring & Health Management Oversight Committee (the MHMOC) will be comprised of the Independent Chair, and seven (7) other members, including a representative appointed by each of the following:

- Nunatsiavut Government
- Innu Nation
- NunatuKavut
- Affected Municipalities
- Provincial government
- Nalcor
- Federal government

Representatives appointed by each party as an MHMOC member should have the authority, delegated or otherwise, to provide opinion/perspective or to vote on behalf of the party being represented to ensure that the MHMOC can act in an efficient manner to meet its mandate and achieve the objectives.

Each party may appoint an alternate or additional representative, but that shall not vary or amend the voting structure. Any additional representative appointed by a party shall be considered an ex-officio member.

Quorum:

Four (4) of the MHMOC members, and the Independent Chair shall constitute quorum.

Term:

Each MHMOC member shall serve a term of two (2) years and may be reappointed at the discretion of their representative organization.

Completion:

The MHMOC shall operate for a period of 2 years and be subject to a review at that time to determine if its work is still required. The review could occur earlier than the two year mark if methylmercury resulting from the Muskrat Falls Project is shown to have peaked or concerns for methylmercury levels have been addressed through ongoing monitoring and health management activities.

Recommendation Making of the MHMOC:

The MHMOC shall operate by consensus of all members, as may be possible. Where no consensus can be reached, dissenting opinions of all members, shall be attached to any simple majority vote. The Chair shall vote only in order to break a tie.

Frequency of Meetings:

The MHMOC will meet at least on a quarterly basis. The Independent Chair may convene additional meetings on an as needed basis, upon providing reasonable notice to all MHMOC members.

Vacancies:

Any vacancy of the MHMOC shall be filled in the same manner as the original appointment.

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Support Staff and Office Location

Support staff shall be hired/appointed to provide assistance and administrative support to the Independent Chair, e.g. recording and distribution of minutes, providing administrative assistance and support for the Members and the Committees. Paid staff must include:

- Independent Chair
- Senior administrative support (e.g. with accounting experience, ability to coordinate with groups)

An office shall be established at 169 Hamilton River Road, Happy Valley-Goose Bay, with appropriate signage to identify it as an independent office, will be provided.

Budget

With the exception of travel costs for the provincial and federal government representatives, which shall be the responsibility of their respective departments, funding of the activities of the MHMOC will be provided by Nalcor, in accordance with the following annual budget outlined below. (to be inserted at a later date)

Travel costs and related expenses for staff of the MHMOC and the remaining members of the MHMOC shall be reimbursed in accordance with provincial government rates, as established by Treasury Board.

DRAFT

Buckle, Joy

From: Chaytor, Kerry
Sent: Tuesday, April 9, 2019 4:15 PM
To: Gover, Aubrey
Subject: RE: IEAC Meeting

Hi Aubrey, the meeting will take place on Thursday, April 11th at 3:00 pm in the Premier's Boardroom.

Thank you,
Kerry

From: Gover, Aubrey
Sent: Tuesday, April 9, 2019 8:17 AM
To: Chaytor, Kerry <KerryChaytor@gov.nl.ca>
Subject: IEAC Meeting

Kerry, the letters are gone and now people are asking when the meeting will occur. Please let me know the date, time and place when you can and I will get it out to them Thanks.

Aubrey Gover
Deputy Minister
Indigenous Affairs

T. 709-729-4776, F. 709-729-2129
PO Box 8700, St. John's, NL
A1B4J6

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Premier of NL

From: Grand Chief <grandchief@innu.ca>
Sent: Monday, June 17, 2019 5:04 PM
To: Premier of NL
Cc: Natural Resources Minister; Dempster, Lisa; Chief Eugene Hart; Chief John Nui
Subject: HPRM: Proposed MHMOC and related issues
Attachments: IN_Premier_MHMOC_June_17_2019.pdf

Good afternoon Premier Ball,

Please find attached Innu Nation's correspondence to you following our meeting of June 11th, 2019.

We look forward to your reply.

Nin,

Gregory Rich
Grand Chief of Innu Nation
P. O. Box 186, 11 Piwas Street
Natuashish, NL
A0A 1A0

(W) 709-478-8755

(C) 709-896-1660

(F) 709-478-8833

Email: kanikue.rich@innu.ca

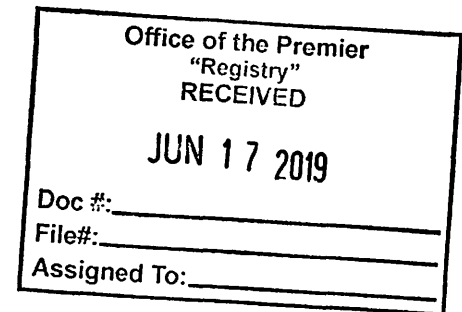


www.innu.ca

Box 186 Natuashish NL ACP 1A0 T 709 478 8643 F 709 478 8633
 Box 119 Sheshatshiu NL ACP 1MC T 709 497 8398 F 709 497 8396
 Box 1106 Stn C Goose Bay NL ACP 1C0 T 709 896 3883 F 709 896 1150

June 17, 2019

The Hon. Dwight Ball, Premier
 President of Executive Council
 Minister for Intergovernmental and Indigenous Affairs
 Minister of Labrador Affairs
 Confederation Building, East Block
 P.O. Box 8700
 St. John's, NL A1B 4J6



By Email: premier@gov.nl.ca

Dear Premier Ball,

This letter is in response to your letter of April 8th and our meeting of June 11th with respect to your proposed monitoring and health management oversight committee for the Muskrat Falls Project

Innu are the Aboriginal Rights Holders in the Muskrat Falls Project Area

As we explained at our meeting, the Innu People are the only recognized holders of Aboriginal Rights in the Muskrat Falls Project Area. That recognition led to the legally binding Lower Churchill Impacts and Benefits Agreement ("IBA") signed by Nalcor with the Innu Nation and the Sheshatshiu and Mushuau Innu First Nations in 2011.

An entire chapter of the IBA (Chapter 5 - Environmental Protection) addresses environmental matters including monitoring of the environmental impacts and the establishment of an Environmental Management Committee consisting of two Innu and two Nalcor representatives.

In addition, the Aboriginal Rights of the Innu People to the Muskrat Falls Project Area was recognized in the Comprehensive Claims Agreement in Principle (AIP) signed by the Innu Nation, Canada, Newfoundland and Labrador and the First Nations of Sheshatshiu and Natuashish in 2011. Section 28.7.2 of the AIP in the extensive Churchill Falls Project Chapter is a specific commitment by the province and by Canada to "consult the Innu government prior to issuing any of the Permits referred to in 28.7.1, including with respect to any proposed terms and conditions of the attached to such Permits, all in accordance with an environmental management agreement that shall be concluded prior to the issuance of any Permits to allow the construction of the Lower Churchill Projects or any Lower Churchill Subsequent Development".

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That environmental management agreement (EMA) is an unfulfilled treaty obligation and the EMA must be in place as part of the final Comprehensive Land Claims Agreement (Treaty) that is near completion. The substance of the EMA has been negotiated by the Innu, Canada and NL but funding for the Innu to implement their EMA responsibilities is the outstanding issue that must be resolved for the EMA to be signed. The Innu reject NL's contention that the Innu are provided some funding by Nalcor under the environmental provisions in the IBA and accordingly that the province is not obligated to fund the EMA. The Innu position is that the Treaty obligation is specific and it is very different from the contractual funding obligation of Nalcor under the IBA>

So, to sum up Premier, the Aboriginal Rights of the Innu and the legal responsibilities of Nalcor with respect to all aspects of the Muskrat Falls project, including environmental impacts and monitoring are addressed in the IBA. And the Section 35 Constitutional rights of the Innu and the Constitutional obligations of Canada and NL with respect to Muskrat Falls are addressed in the AIP with the unfulfilled obligations to be addressed in the Treaty.

The Innu are Aboriginal Rights Holders not “stakeholders”

Accordingly you will recognize, Premier, that the Innu Nation and First Nations of Sheshatshiu and Natuashish are not “stakeholders” with respect to the monitoring of the environmental impacts of Muskrat Falls. The Innu are the holders of aboriginal rights which have been implemented in the IBA and in the AIP with the remaining issues including the EMA to be addressed in the Treaty.

In this context, the Innu propose the following in response to your proposal for the Oversight Committee.

The Innu are prepared to participate in the Oversight Committee if the following conditions are met.

1. Completion of the Environmental Management Agreement

The first condition is that Canada and NL will make an EMA funding proposal to the Innu that is commensurate with the Innu obligations under the EMA and that an agreement on funding has been reached on or before July 31 2019

2. IBA Tshiashkueish Committee Engagement on Environmental Issues

The second condition is that the Tshiashkueish committee, the senior Innu / Nalcor oversight committee established in the IBA , will make recommendations with respect to improving the implementation of the provisions of Chapter 5; The, Environmental Protection chapter of the IBA' on or before July 31 2019.

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3. Innu Proposal on Oversight Committee Terms of reference

The third condition is with respect to the decision making process for the proposed Oversight Committee.

As noted above, the Innu position is that the IBA and the AIP/ Treaty are the legal and Constitutional agreements pursuant to which the Innu Nation, Canada and NL will monitor the environmental impacts of the Muskrat Falls project.

Based on that understanding, the Innu are prepared to participate in the Oversight Committee provided that the terms of reference will stipulate that the committee will not make any recommendations unless there is full agreement of all seven members - excluding the independent chair.

In other words, we firmly believe that the committee's work must be impartial, be based on scientific evidence and be free from political agendas; objectives which tend to fall away if votes will determine the outcome... It is also our view that the requirement that all the members of the committee must agree before a recommendation is made will encourage thoughtful listening and discussion and objective consensus building.

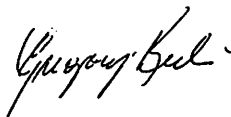
In other respects we find the proposed terms of reference to be acceptable.

All of the people of Labrador will be served by the objective, non-partisan, scientific monitoring and communication of environmental and health impact information with respect to Muskrat Falls.

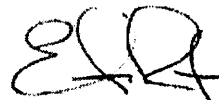
Accordingly even as we view the environmental protection provisions in our IBA with Nalcor and in our AIP/Treaty with Canada and NL to our primary environmental monitoring vehicles for the Muskrat Falls Project, the Innu will participate in the Oversight Committee but only if the three conditions noted above are met.

Premier, we await your positive response.

Nin,



Grand Chief Gregory Rich



Deputy Grand Chief Etienne Rich

cc The Hon. Lisa Dempster, Minister of Municipal Affairs and Environment
The Hon. Siobhan Coady, Minister of Natural Resources
Chief Eugene Hart, Sheshatshiu Innu First Nation
Chief John Nui, Mushuau Innu First Nation