

Information Note
Municipal Affairs and Environment

Title: Response to the recommendations of the Independent Expert Advisory Committee

Issue: To provide additional information and potential next steps on the direction provided through MC2019-0000 following discussions with Nalcor.

Background and Current Status:

- On October 26, 2016, the Government of Newfoundland and Labrador, Innu Nation, Nunatsiavut Government, and the NunatuKavut Community Council met to address concerns regarding the health and well-being of the people of Labrador as related to the Muskrat Falls project.
- All parties agreed to the formation of an Independent Expert Advisory Committee (IEAC). The IEAC was comprised of representatives of the Innu Nation, Nunatsiavut Government, the NunatuKavut Community Council, and federal, provincial and municipal governments.
- According to its mandate the IEAC is to:
 - use the best available peer reviewed science and Indigenous knowledge, and may consider other relevant research only in addition to and not instead of the above-mentioned peer reviewed science, to assess and recommend options for mitigation of methylmercury impacts, including but not limited to discussing the feasibility, necessity and potential impacts of further clearing of the Muskrat Reservoir;
 - review the plans for monitoring, monitoring results and key findings arising from research and monitoring, about or relevant for mitigation of methylmercury impacts; and
 - direct the research activities and recommend the design of new monitoring and mitigation measures for the protection of the health of Indigenous and local populations.
- Following initial investigative work, on September 22, 2017, the IEAC made three early recommendations for the consideration of Government (ultimately to Nalcor). Government accepted those recommendations which included:
 - A feasibility study be undertaken by December 20, 2017, for the removal of soil and vegetation from the future reservoir area.
 - Nalcor implement the IEAC report's recommended changes to the scope and quality of the Muskrat Falls Aquatic Monitoring Program.
 - Nalcor expedite the finalization of their current methylmercury modelling project, and complete the work no later than Feb 15, 2018. (Note: This deadline was not met due to the complexity of the modelling work requested but was concluded after the IEAC work was completed).
- On April 11, 2018 the Provincial Government received the final recommendations of the IEAC to address concerns related to methylmercury at the Muskrat Falls project. The recommendations, three of which are by consensus and a fourth, by vote of the voting members, include:

1. The IEAC recommends that a public information campaign be undertaken to communicate that, based on scientific evidence, current practices related to consumption of country food and water are safe.
 2. The IEAC recommends that an independent body oversee the design and implementation of a monitoring program for the Lower Churchill Project, ensuring that it is community-based, and that it provides information that is relevant to the protection of human health. This recommendation outlines the need for linkage between monitoring and human health.
 3. The IEAC recommends that the Province, Nalcor Energy, Indigenous groups and the local populations, negotiate an Impact Security Fund prior to full flooding. The purpose of the fund is to guarantee continued access to local country food, or safe alternatives, if methylmercury exposures increase above pre-established thresholds, despite mitigation efforts.
 4. While the IEAC was not able to achieve consensus with respect to mitigation, based on votes by three of the four voting members, the IEAC recommends that Nalcor Energy undertake targeted removal of soil and capping of wetlands in the future reservoir area before impoundment. Three of the voting members (Nunatsiavut Government, NunatuKavut Community Council and Affected Municipalities) voted in favour; the Innu Nation supported covering the wetlands.
- The water quality monitoring program has been taking samples for testing of methylmercury in water at various parts of the Lower Churchill River since 2016. Over 1000 samples have been collected and analyzed by an accredited laboratory. These results are publicly available on the Department's website.
 - MC2019-█████ provided direction on GNL's response to these recommendations: 1) Recommendation was accepted; 2) Recommendation was accepted; 3) Any such discussion to be pursued based on finalization of the monitoring and health work and with analysis of the current monitoring data; a fund would not be established at this point in time; and, 4) Wetland capping to be pursued in conjunction with fish habitat work.

Analysis:

- The water quality data from more than 1000 samples indicates that many samples do not have enough methylmercury to be detected by the laboratory. The laboratory has the lowest detection level testing available for methylmercury. The data indicates that methylmercury, when detected, is present at very low levels that have never imposed any risk to human health. The statistical analysis completed by MAE since the conclusion of IEAC work indicate that the data are significantly significant in demonstrating that there has been no significant increase in methylmercury with 25% impoundment complete.
- During Summer 2018, Nalcor proposed to cap a portion of wetlands identified by the IEAC (25-28 hectares of approximately 40 hectares identified by the IEAC), while performing fish habitat enhancement work. An application for a permit to alter a body of water was submitted in late July with work to be performed in Fall 2018. A decision on the permit was not taken as MAE felt it was appropriate to wait until a decision was reached on the IEAC recommendations. While Nalcor had indicated the plan was to complete this work in Fall 2018 it was not clear that work could not be completed after that time. SNC Lavelin had also indicated in the feasibility report that completing capping was possible after flooding and MAE understood this was an option that could be pursued.

- Following receipt of this MC2019-██████, the Department notified Nalcor Energy of the direction to allow for implementation. Nalcor advised that they were ready to proceed with recommendations 1 and 2 immediately but raised concern with the timing to pursue wetland capping. Nalcor consistently indicated in discussions throughout the IEAC process that as the benefits associated with wetland capping are small from a mitigation perspective that other options such as establishing a fund or a program to enhance country food storage and distribution might be a better means to expend funds required to pursue wetland capping.
- Nalcor noted that because the window for remaining impoundment is between July and end of September 2019 they did not feel that wetland capping could be pursued without a delay in project schedule. As a result the opportunity to work in tandem with that work had passed.
- As noted during the IEAC work a scenario had been suggested whereby capping could be pursued after impoundment using a barge. Nalcor committed to review this scenario with SNC Lavelin and subsequently advised that there were occupational health and safety concerns regarding this approach given the instability of the banks of the reservoir in some areas.
- In light of this information, MAE has engaged with Nalcor on whether there are opportunities to pursue some portion of the wetland capping or alternative methodologies that may be employed to respond to the IEAC recommendations on mitigation and specifically the Government's direction regarding wetland capping. Thus far Nalcor has not indicated that such an option exists.
- As the recommendations show, much of the focus of the IEAC has focused on potential impacts on country foods and food security and the resulting impacts on public health. Nalcor has also suggested consideration of an infrastructure program that could include development of cold storage infrastructure facilities in strategic locations and a shipping and distribution plan related to the country foods. This is consistent with the position of Nalcor during the IEAC work that expenditures on wetland capping would be better focused on other initiatives that may have a more positive effect on health outcomes.

Action to be Taken:

- MAE will continue to engage with the Department of Natural Resources, Nalcor, and Indigenous Affairs Secretariat on an approach forward on the direction provided by Government and other opportunities to positively impact public health and safety.
- Following these discussions, the Department will schedule meetings with the Indigenous governments and organizations to discuss a path forward including the establishment of an advisory committee as recommended to focus on the work required to implement recommendations related to monitoring and health management.

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Approved by: Honourable Graham Letto (Pending)

Date: March 6, 2019