



Date: February 15, 2018

RE: Commission of Inquiry Respecting the Muskrat Falls Project

admin@muskratfallsinquiry.ca

Commissioner Richard LeBlanc
5th Floor, Suite 502, Beothuk Building
20 Crosbie Place
St. John's, NL A1B 3Y8

Attn: Commissioner LeBlanc

We wish to thank you for the opportunity as per your public notice dated November 20, 2017, to submit with regards to the interpretation of the Terms of Reference for the Inquiry into the Muskrat Falls project. Please accept this document as a joint submission of the Labrador Land Protectors and Grand Riverkeeper Labrador.

We believe the inquiry into Muskrat Falls should cover every possible aspect of the project; including the Crown Corporation which was formed to carry out the project; how that corporation was formed; how and why laws were put in place to conceal various aspects of the activities of the Crown Corporation from citizens; all aspects leading up to the sanctioning of the project by past governments; all actions or non-actions by the present government that effectively allowed the project to proceed beyond a point of no return even though the situation with Muskrat Falls was well known by this current government even to the point that one of the major election promises was that the books on Nalcor would be opened to the public, which, of course, has never happened. We sincerely hope that this inquiry and forensic audit will be the “opening, not only of the books on Nalcor, but the revelations beyond accounting and into the internal documents between Nalcor managers, between Government departments and between Nalcor and Governments.

That this Inquiry has been called along with a forensic audit is reason enough to show that public trust in our government, both past and present and in the workings of this corporation are eroded so badly that it is difficult to see how it can ever be restored. It is our hope that some semblance of trust can be restored once your work is complete and to that end we hope you inquire into every possible avenue to help citizens regain trust... otherwise, the work of this Commission will have been for naught.

We hope to show Judge LeBlanc, some of what we, as average citizens, have seen as the reasons for the erosion of trust of our governments and of Nalcor and have provided, where possible, documents and references that are the grounds for our mistrust and to indicate where, within the Commission's Terms of Reference we feel the Commission will have the authority to investigate these incidents.

We shall begin by commenting on **section 4 of the TOR.**

Section 4 (a)

In this section, we are deeply concerned that Premier Ball and the Government of NL have not have given you explicit direction to explore the events leading up to Nalcor's decision to recommend that government sanction the Muskrat Falls project. We feel it is extremely important that the public totally understand how Nalcor Energy came into being, how and why it became partially exempt from the ATIPPA (Access to Information Act), and how and why it was exempted from oversight by the Public Utilities Board, and the Public Tendering Act, and how and why the Environmental Assessment in 2012 and the recommendations of the Joint Panel were mostly ignored. (meaning, of course, that the Federal Government had a huge role to play in this project and their involvement should be considered; not only during the release of the project from the Environmental Assessment but, especially as it relates to the Federal Loan Guarantee and the demand by the Federal Government that laws be put in place to insure that Nalcor would be a monopoly, that no other entity in the Province could produce power to sell to the public and that rates would rise with the Power Purchase Agreement (see --

[https://muskratfalls.nalcorenergy.com/wp-content/uploads/2013/03/Power-Purchase-](https://muskratfalls.nalcorenergy.com/wp-content/uploads/2013/03/Power-Purchase-Agreement_29Nov2013.pdf)

[Agreement_29Nov2013.pdf](#) in place between Nalcor and it's subsidiary NL Hydro to insure that the costs would be paid by the ratepayers of the Province and that Canada, as the guarantor of the bulk of the costs would not be left on the hook for those costs.

1. Why would the Federal Government insist that this type of contract be signed between Nalcor and it's Subsidiary NL Hydro knowing that the citizens/ratepayers were being put on the hook for whatever costs came out of the construction of this project?
2. What correspondence, meetings, and e-mail messages took place between the Federal and Provincial counterparts before the Federal Loan Guarantee was finalized?
3. Did the Federal government insist on this project proceeding because they wanted Nova Scotia and the Provincial Government of the day in that Province to benefit for Political Reasons.

In our view, the inquiry should review as far back as necessary and especially back far enough to verify the events in 2007 which saw the creation of the Crown Corporation, Nalcor Energy. The "boondoggle" that is now Muskrat Falls was master mined by various politicians, including and mostly by past Premier Danny Williams during his two terms as Premier from 2003 until 2010 and it is extremely important for the public to understand how these processes occurred and what policies can be put in place, both Provincially and Federally, in the future, to prevent the making of a crown monopoly which uses taxpayer and ratepayer funds to operate and to construct projects, but over which the taxpayers and ratepayers of the Province have absolutely no control, nor, apparently, does the Provincial Government. (In our opinion)

We will endeavor to comment on those sections of the TOR that are of concern to us and that we feel we can contribute an understanding of how each one should be interpreted.

Section 4 (a) (i) (ii) (iii) and (iv)

“Nalcor’s conduct in retaining and subsequently dealing with contractors and suppliers of every kind was in accordance with best practice, and, if not, whether Nalcor’s supervisory oversight and conduct contributed to project cost increases.

The terms of the contractual arrangements between Nalcor and the various contractors retained in relation to the Muskrat Falls Project contributed to delays and cost overruns, and whether or not these terms provided sufficient risk transfer from Nalcor to the contractors, the overall project management structure Nalcor developed and followed was in accordance with best practice and whether it contributed to cost increases and project delays, the overall procurement strategy developed by Nalcor for the project to subdivide the Muskrat Falls Project into multiple construction packages followed industry best practices, and whether or not there was fair and competent consideration of risk transfer and retention in this strategy relative to other procurement models,

Several questions need to be asked with regards to this section.

AS THEY APPLY TO A WASTE OF STEEL BY CONTRACTOR ASTALDI:

1. Was Nalcor involved in the decision by Astaldi to build the dome that eventually was dismantled and ended in a junk yard in Happy Valley-Goose Bay?
2. Did Astaldi pay for the tons of steel they discarded from their own funds or were the costs added to the price of the project that ratepayers and taxpayers must eventually pay?
3. Was this waste of steel considered when Nalcor increased the price of the contract to Astaldi and if so, how was it considered?

<http://unclegnarley.blogspot.ca/2017/09/in-pictures-nalcor-dumps-millions.html>

4. What reasoning was used by Nalcor to accept the contract with Astaldi when, as we understand, it was not just the lowest price, but much lower than the next bid?
5. Why was the contract price to Astaldi increased and once it was increased was it anywhere close to the next closest bid?
6. Was the bid from Astaldi accepted simply to keep the price below the 7 Billion dollar cost of the alternatives? One anonymous engineer reported such actions to the Uncle Gnarley blog and it is important to understand whether the Astaldi contract might have been one incident of such action.

AS THEY APPLY TO WASTED and UNACCEPTABLE TRANSMISSION CABLE:

1. Why was defective transmission cable not detected at the factory and before shipping?
2. Why was the defective cable not detected once it arrived in the supply yard?
3. What transpired between the contractor who was stringing the wire and the management with regards to whether it should be installed or not? (we have heard stories that the contractor noticed the defective cable and reported it but was told to install it anyway.)
4. Was the defective cable eventually removed/replaced?
5. Did the manufacturer pay for any new cable?
6. Was the contractor ultimately held responsible?
7. Will the ratepayers and tax payers of the Province ultimately pay for any new cable and for any labor to reinstall it? (in a personal conversation between V.P. Gilbert Bennett and Roberta Benefiel of GRK, Mr. Bennett said there would be no extra cost to the project of this issue.)

<http://unclegnarley.blogspot.ca/2017/09/in-pictures-nalcor-dumps-millions.html>

AS THEY APPLY TO TOWERS NOT PROPERLY WELDED:

FAWLTY TOWERS <http://unclegnarley.blogspot.ca/2017/11/coady-misinformed-second-source.html>

AND: <http://unclegnarley.blogspot.ca/2017/11/faulty-towers-nalcor-comedy-of-errors.html>

Yet another anonymous source speaking with the blogger Uncle Gnarley has reported many problems with welds on a number of transmission towers with roughly 330 locations on HVdc (direct current TL) and about 50 locations on the HVac (alternating current TL) - all having some amount of topside welding issues.

In a press release regarding this issue Nalcor states: "**there is no cost or schedule impact (of the items identified for repair) on the transmission project**",

We are concerned that this may or may not be the case and believe this issue to be of huge importance with regards to the terms of contractual arrangements with contractors; with regards to Nalcor's supervisory oversight of the contractors; and with regards to cost overruns and public safety.

1. Was the issue of welding on the transmission lines completely solved?
2. What process was used to insure the towers are stable?
3. Were the costs associated with the repairs borne by the contractor?
4. If not, what was the cost to ratepayers and tax payers of these repairs?
5. What effect did the repairs have on the overall schedule of the project?

We now refer to **sections 4 (vi) (C)** which states:

“whether the determination that the Muskrat Falls Project should be exempt from oversight by the Board of commissioners of Public Utilities was justified and reasonable and what was the effect of this exemption, if any, on the development, costs and operation of the Muskrat Falls project.”

(emphasis added)

It is our interpretation of section 4 vi c), that any and all events leading up to the determination that Muskrat Falls should be exempt from oversight by the PUB must be considered. A quote from a CBC report states:

“The PUB will not be able to conduct the sort of costs-benefits analysis that has been conducted on previous hydroelectric projects, nor will it have the authority to order Nalcor and the government to look at lower-cost options that could meet the province's electrical needs.”

and thus, in order to determine whether the exemption was justified and reasonable, it will obviously be necessary to look at events as far back as when Cabinet and Past Premiers began the discussion that led to that first legislation (Bills 60 and 61) as well as all cabinet discussions, e-mails etc. and Hansard documents around the decision to exempt much of the activities of Nalcor from the PUB. As many documents as are necessary to understand the hows and whys of these decisions should be reviewed by the Commission to determine the answer to the question of justifiability and reasonability. Certainly, events much before the actual decision by Nalcor to recommend that government sanction the project will have to be reviewed in order to determine justification and reasonability. i.e)Section 4 (a)

Section 4 (b)

“why there are significant differences between the estimated costs of the Muskrat Falls Project at the time of sanction and the costs by Nalcor during project execution, to the time of this inquiry together with reliable estimates of the costs to the conclusion of the project including whether...

Our interpretation of this section is that given the fact that apparently two or three engineers have anonymously reported that they were told to keep costs below a certain amount before sanction occurred, that all “inside documents” between government and Nalcor must be reviewed especially those that lead to the review by Manitoba Hydro and the PUB review of the least cost option, and that the Commission of Inquiry in its ability to call witnesses should be able to call any former or current worker and or any former or current management for Nalcor or any contractor to testify about what they know and that if any witness asks for anonymity due to non-disclosure documents or fear of being fired, that it be granted. In fact, we feel it would be very beneficial for the Commission to reach out to former and current workers from the Muskrat Falls site in order to record their stories.

One question we would ask here that relates to transparency and the exemption from the PUB is whether or not the problems with this project run much deeper than just this project and whether or not public accountability is lacking in many other aspects of our current institutions? Our hope is that recommendations by the Commission regarding this project will likely result in better transparency and public accountability in the way ALL public funds are allocated. We recommend that the Commission ensure that when writing Terms of Reference for the forensic audit by Grand Thornton that they be instructed to “follow the money” throughout their work in order to see with clarity how funds were spent; where and with whom they were spent; who benefited and have beneficiaries played any major role in decision making of the project? To what extent have contracts been awarded on the basis of “established relationships”, with companies who have pleased Nalcor in the Past, rather than with other companies with as worthy a record since often, such “pleasure” is rewarded by a succession of contracts enabling Nalcor to reward those who buy into the Nalcor culture and mindset? In our opinion, it would be important for Grand Thornton to delve into the number and amounts that Nalcor has used as “charitable grants” as well, and those organizations should be on the beneficiaries list. The Commission should gather all community donations and grants together and ensure that the total does not exceed the

acceptable amount of 1%. It would also be important to know whether those funds came directly from Nalcor's profit or from the funds earmarked for the construction of the project.

We believe there are various sections within the Terms of Reference where these questions can be answered by the Commission, namely, 4 (b)v, 4 (c), 4 (d), 5 (a), 5 (b), 5 (c), 5 (d), 5 (e). ESPECIALLY 5 (d) and 5 (e).

Examples of Why GRK and LLP believe lack of transparency by Government and Nalcor must be reviewed.

Grand Riverkeeper Labrador was contacted during the Joint Panel Hearings by a Professor at Memorial University who alleged that Provincial Government Scientists were required to have their presentations vetted by Nalcor before they could present them to the Joint Panel... He had been contacted by a Wildlife officer who stated his boss was livid at this situation. A question during the hearings directly to his boss, the head of the Wildlife Department about this got a "no comment" reply, giving us reason to believe the allegation was indeed true. As well, we noted throughout the entire Panel Hearings, a representative from the Justice department followed along on his own computer with every single presentation made by Newfoundland Department's Scientists as though making sure they said what was showing on his computer. When we questioned some members of the Panel a couple of years later as to why the Panel did not question this activity once it was revealed we were told it was normal for this to happen between a Government and it's Crown Corporation. This is but one example of how and why the people who opposed this project from the beginning had little or no faith in our Provincial Institutions nor, for that matter, the Federal Environmental Assessment process either as it finally turns out, and is but one example of why we feel the foundations of our democracy and the institutions and policies that currently exist must be reviewed and changed if the people are ever going to trust that government is acting to protect the best interest of the majority of its citizens.

1. What is the relationship between the Crown Corporation and Government Departments as it relates to scientific reporting? i.e. is there a hands-off approach or must scientists from Government Departments be subject to vetting by a Crown Corporation's Scientists behind the scenes?
2. If the Commission determines this has happened, Is this process legal?
3. If it is legal, is it moral and if not, how can government policy/legislation be changed to prevent this from happening again?
4. What, if anything was changed on any government scientist's presentations during the Joint Panel hearings?
5. If any results on a government scientist's work was changed, how might that have affected the outcome of the Joint Panel Report.
6. Government scientists who presented to the Joint Panel should be called as witnesses, again, with a guarantee that their jobs will not be affected.

GRK and LLP members were made aware that a contractor hired by Nalcor from a "for hire" or "job finder" "head hunters", company seemed to be in conflict of interest as the company which hired the contractor out to Nalcor was owned by the contractor's son. This particular contractor was not one of the worker bees but was in fact, a manager who has much control of the project and was receiving a very high wage. Just last week, after these allegations became public, Nalcor has admitted that they have found an example of this situation and that it will be corrected but this was not revealed until recently and an anonymous letter advising Nalcor of the problem was sent back in 2014.

1. Why, did it take the public and the media to get this situation resolved? We believe that recommendations from the Commission can help insure these situations do not happen or at least happen less often and that consideration of the powers, duties and responsibilities of a Crown Corporation, as listed in 5 (c) as well as 5 (d), the need to balance commercial considerations and public accountability and transparency in carrying out a large-scale publicly-

funded project;, (or any project whether large-scale or small-scale for that matter); and 5 (e), the need to balance the interests of ratepayers and the interests of taxpayers in carrying out a large-scale publicly-funded project.... And we would add again, (or any project, whether large-scale or small-scale), are sufficient to cover this and other questions below.

2. Why did it take Nalcor so long to report the incident?
3. Was the contractor paid for this 2 or 3-year period even after Nalcor received notification from the anonymous writer?
4. Were there any financial repercussions for the contractor once he/she was confronted?
5. What were the financial repercussions for the Project?
6. Exactly how many contractors currently and in the past have worked under this type of arrangement?

The scale of the project is important in this particular inquiry, however, in order to insure future public accountability to those of us who will eventually pay the bills for all government and Crown Corporation projects, we believe any recommendations by this Commission for changes in how transparency and public accountability should be improved as regards to this project will have the effect of bettering how all public projects proceed in the future.

Section 4 (v) (C)

- (v) whether “any risk assessments, financial or otherwise, were conducted in respect of the Muskrat Falls Project, including any assessments prepared externally and whether,
- (A) the assessments were conducted in accordance with best practice,
 - (B) Nalcor took possession of the reports, including the method by which Nalcor took possession,
 - (C) Nalcor took appropriate measures to mitigate the risks identified, and
 - (D) Nalcor made the government aware of the reports and assessments,

That this section is a part of the TOR is extremely important to GRK and LLP members and supporters. As part of our submission to the Public Utilities Board regarding risk to the availability of power after Muskrat Falls comes on stream, we submitted reports from the Helios Centre , Mr. Philip Raphals, which clearly outlined the problem of availability of power in the absence of a Water Management Agreement with CFLCo... and Hydro Quebec. Questions that arise from this issue are:

1. Will the Commission review the actions of the Provincial Government and Nalcor with regards to the Water Management Agreement (WMA) signed between Nalcor and CFLCo?
2. Will the Commission review and comment on whether Nalcor knew that it did not have a PROPER WMA and that forging ahead with sanction of the Project without a very basic and very important contract with the operator who controls over 90 % of the power coming out of Churchill Falls until at least 2041 was fool hearty at best and deceptive and criminal at worse?
3. Was the WMA used as a “cover” to show that Muskrat Falls was the best and cheapest way to provide electricity over the alternatives, and that the assumptions and forecasts for the project were based on false information with regards to water flows and capacity?
4. Did Nalcor present to the government of the day that the WMA was legal but Government neglected to have their lawyers closely review the WMA?

We are absolutely concerned with the revelation that SNC Lavalin had produced a risk assessment that was apparently either not considered by Nalcor, not given to Nalcor, or not accepted by Nalcor, because that particular document (<http://www.thetelegram.com/news/local/snc-lavalin-report-revealed-muskrat-falls-risks-premier-25434/>) listed one of the main concerns of our two groups, that of the stability of the North Spur. (see the full report here :

http://www.nr.gov.nl.ca/nr/publications/energy/snc_lavalin_risk_assessment.pdf

The North Spur risk issue is listed as HIGH. At the time the report was written the project was about 20% complete, and it warned of a possible 39% overrun. (see quote from above linked document)

"The project was roughly 20 per cent complete, with the report warning of a possible 39 per cent overrun.

Construction is now 75 per cent complete. The expected final bill has moved from \$7.4 billion (including financing) in 2012 to an estimated \$12.7 billion"

Questions arising from this SNC Lavalin report are as follows:

1. Will the Commission dig deep into this issue to determine exactly what happened with regards to this report, i.e.
 - a. Did SNC Lavalin actually deliver the report to Ed Martin?, if so,
 - b. How was it delivered?
 - c. When was it delivered?
 - d. What was the reaction of the then CEO Mr. Martin?
2. With regards to possible cancellation of the project at the time of the report in 2013, will the Commission determine the amount spent up to and including the date of the report (whether or not Ed. Martin accepted it), and the amount that might have been saved had the project been halted and a proper public review and forensic audit done at that time?
3. If Ed Martin refused the report as SNC Lavalin states, why did they (SNC Lavalin) not bring this to the attention of Government? Or if they did, why did Government not reveal the extent of the risks and the financial burden associated with them?
4. What are the legal and moral implications of the actions by SNC Lavalin, Ed Martin, anyone else within Nalcor who was aware of the risk report, and or Government and what policies would the Commission recommend in order to ensure this does not happen again?

For years now GRK and LLP have been consistent in our requests, letters, media and submissions that we were not convinced that Nalcor had done all that was possible to ensure the North Spur would hold... Grand Riverkeeper Labrador as intervenor in the PUB review of the events of Dark NL insisted that when reviewing the reliability of power once the Muskrat Falls project comes on stream must include a more robust review of the stabilization of the North Spur and to that end, we reached out to a world-renowned expert in quick clay from Sweden. Dr. Stig Bernander is respected throughout many countries where quick clay is a problem as the leading expert on this issue and just as recently as last week has again sent another updated report that strongly rejects Nalcor's risk assessment methods for the North Spur. (the Bernander reports can be found here:

<http://www.pub.nl.ca/applications/IslandInterconnectedSystem/phasetwo/files/correspondance/From%20GRK%20-%20Dr.%20S.%20Bernander%20-%20Safety%20and%20Reliability%20of%20the%20Muskrat%20Falls%20Dam%20-%202016-10-13.PDFnderstand>

And here: <http://tu.diva-portal.org/smash/get/diva2:1180147/FULLTEXT01.pdf> This last link is to a synopsis of the previous reports and a letter asking engineers at SNC Lavalin to look closely at what the eminent scientist, Dr. Bernander is saying without "preconceived notions".

We are at a loss as to why this truly independent expert's advice would be discarded by Nalcor and SNC Lavalin engineers when it is obvious that SNC Lavalin was concerned about the risks associated with the North Spur when they wrote their risk assessment in 2013 and it is just as obvious to all who have followed this closely that the people who live downstream of the project are not convinced that Nalcor and their paid contractors have shown they have done everything possible to protect them from possible drowning and their property from flood should a catastrophic failure of the North Spur occur. GRK and LLP believe it is within the Commission's mandate in **section 8** of the TOR to connect with Dr. Bernander and his team as special expertise services to review the reports of this eminent scientist to determine, as stated in **section 4 (v)** whether any risk assessments, financial or otherwise were conducted

in respect of the the Muskrat Falls Project **including any assessments prepared externally...(bolding added).**

For further emphasis on the need for the Commission to review not only the risk assessments already on record but also the reports of Dr. Stig Bernander who has determined with his last report, that Nalcor has absolutely not used the proper methods nor the right soil properties to perform their risk assessment on the possibility of a failure of the North Spur; we now report to the Commission another very troubling incident connected directly to the very situation that folks downstream are so concerned about.

We ask the Commission to review reports from another whistle blower who provided to the Uncle Gnarley Blog, a copy of a letter concerning the flooding of MudLake in the spring of 2017 that was written by a senior official of the contractor in charge of building the two main dams at the project. In that “leaked” letter, the senior official of Barnard Pennecon LP clearly accuses Nalcor of negligence and a “failure to manage the downstream flows which resulted in the flooding of the Mud Lake Community.”, Later, when Government finally determined a review of the reasons for the flood was needed because of concerns of the communities involved, a Dr. Karl-Erich Lindenschmidt, Ph.D., Eng. From the School of Environment and Sustainability and the Global Institute for Water Security of the University of Saskatchewan was asked to review and report on whether Nalcor was indeed responsible for the flood or whether there was some other cause. Dr. Lindenschmidt concluded that natural events caused the flood. However, another scientist and many in the communities pointed out that Dr. Lindenschmidt was limited in what he could do because of the lack of hydrological data. Dr. Lindenschmidt’s report can be found here: http://www.mae.gov.nl.ca/waterres/flooding/Lindenschmidt_review_all.pdf

As well, the communities do not discount the letter from Barnard Pennecon LP.

The questions are:

1. who is right and who would have a bias in their reporting?
2. Who actually hired Dr. Lindenschmidt;

3. what was the process to find an “independent” scientist for this report; and
4. what became of the request by Barnard Pennecon LP for payment for the off time for their workers after the Labrador Land Protectors blocked their entrance to the work site in protest of the flooding of the two communities? (i.e. were they paid for the off time or not)?
5. Regarding the Dr. Bernander reports which were submitted to and discounted by the Public Utilities Board, we ask the Commissioner to ascertain why our Utility Regulator would refuse to accept reports of potential risks to the availability of power after Muskrat Falls comes on stream knowing that should the North Spur fail the project would be scrapped and no power would be available?
6. Why the Government of the day would try to forbid the Public Utilities Board from examining anything to do with the construction of the project IF any issues with construction could lead to the unavailability of power after Muskrat Falls comes on stream... which, if the North Spur should fail would certainly be the case,
7. Was the order directing the PUB to look into the causes of “Dark NL” severely restricted on purpose in order to allow Nalcor to maintain secrecy about various issues with the construction of the project?
8. Was Government responsible for colluding with Nalcor to ensure that the PUB was not allowed access to documents that might reveal what kinds of problems were already abound within the construction of the project? and
9. Why Government themselves would not, for the safety of people downstream, insist that the reports from Dr. Bernander and his team, Dr. Leonnart Elfgren and Robin Drury at the very least be subjected to careful securitization by “independent” (cold eyes) geotechnical engineers in no way connected with Nalcor Energy, especially given the fact that Dr. Bernander has “written the book” as they say, on quick clay and has developed new methods that work to “predict” the possibility of a failure

where past methods like those used by Nalcor and SNC Lavalin have a dismal record and are not even able to back into a result even after a slide has occurred. (as Dr. Bernander has reported in his doctoral work as the reason why he undertook to find a better way to predict slides, before they occur.)

We believe the Commissions mandate under **sections 4 (b) and 4 (b) (ii)** can be sufficiently interpreted to include a review and report on this particular situation. (a copy of that blog and the letter can be found at this link: <http://unclegnarley.blogspot.ca/2017/07/new-whistleblower-reveals-nalcor.html> and a link to Dr. Lindenschmidt's report can be found here:

http://www.mae.gov.nl.ca/waterres/flooding/Lindenschmidt_review_all.pdf

Section 4 (b) v

“any risk assessments, financial or otherwise,.....”

With regards to risks from poisoning of the fish and wildlife from methyl mercury:

Nalcor insisted during the lead up to the Joint Panel report and throughout the hearings that with regards to methyl mercury, there would be no effects beyond the mouth of the river.

In Chapter 13 of the Joint Panel report on the project (page 237) the Panel concluded :

The Panel notes that methyl mercury production is an inevitable result of reservoir impoundment and that the consumption of fish or country food contaminated with methyl mercury can pose risks to human health, particularly in young children. The Panel is also aware that fish and country food, such as caribou and seal, remain an important part of many Labrador and Quebec Aboriginal and many non-Aboriginal peoples' diets for both health and economic reasons.”

On page 74 of that same document, the Panel recommended that Nalcor and other hydro developers in Canada carry out a study on the technical, economic and environmental feasibility of mitigating the production of methyl mercury in reservoirs by removing vegetation and soils .. a Pilot Study.

Nunatsiavut Government initiated their own study with the help of Memorial University and Harvard University about the effects of methyl mercury downstream of the Muskrat Falls project and their

findings were far worse than “no effects beyond the mouth of the river”. Questions coming from this issue are as follows:

1. Will the Commission delve deeply into the original statements by Nalcor about “no effects beyond the mouth of the river”?
2. What information/documents/studies were used in order to determine this statement?
3. Was that information relevant?
4. Was Nalcor remiss in its duty to protect citizens downstream of the project from the effects of it’s project, given they were absolutely informed before the Panel Hearings that Aboriginal communities were dependent on the food supply from the Bay and the forests as their main source of sustenance?

Section 5

Shall consider

(a) “Participation in the inquiry by the established leadership of Indigenous people...”

It is the view of GRK and LLP that the Commission must interpret the words “established leadership” in it’s broadest possible interpretation. Example, in most aboriginal groups the leaders are elected every 4 or so years and are basically politicians with the same political aspirations as any other politician, and that is to get re-elected and maintain power by whatever means. Jobs being the most touted means by which most politicians seem to justify to their constituents that they should be re-elected and major projects like Muskrat Falls being the bearer of huge numbers of those JOBS... Thus, participation in this Inquiry by ONLY the “elected or established leadership” of each aboriginal group should be broadened to include the elders and various other well-known individuals within each affected community who have no political aspirations, and are more likely to have a less biased view of the Project, as well as having no close connection to the Proponent because of various agreements they have signed and thus have not necessarily been compromised. Elders and long-time, respected members of an Aboriginal community other than current leaders should also be involved and interviewed.

(b) The need to provide consumers in the province with electricity at the lowest possible cost consistent with reliable service;

With regards to (b) above it is important for the Commission to review the report of the Joint Panel on this subject. Grand Riverkeeper Labrador and members of the Labrador Land Protectors participated greatly in the environmental review of this project and particularly in the month long public hearings. We consistently talked about the need for more work on the alternatives to the project, i.e. wind, solar, and demand side management. But, it seemed to us that Nalcor had blinders and was intent on following the letter of the Energy Plan regardless of cost. The Panel too was not convinced by what Nalcor stated as to Muskrat Falls being the best and least cost way to meet our electricity needs. The Panel's conclusion on page 34 of their final report states the following:

“The Panel concludes that Nalcor’s analysis that showed Muskrat Falls to be the best and least cost way to meet domestic demand requirements is inadequate and an independent analysis of economic, energy and broad-based environmental considerations of alternatives is required.”

Thus, the Government of the day gave the Public Utilities board a mandate to look at this situation, but, as we believe they have done with the Terms of Reference for this commission, the mandate was too narrow and did not allow the board to review anything more than the “isolated island system” that was currently working. They were not permitted to do a proper analysis of the other alternatives as the Panel recommended and thus they declined to make any decision and said so stating they did not have enough information to determine the answer to the question that had been posed to them.

1. Why did the Premier of the day, Cathy Dunderdale, not permit the PUB to look as deeply as was needed into the question of best and least cost way to meet the Island electricity needs, as it was certainly possible for her and her Cabinet to change legislation immediately to allow that to happen?
2. What led to the “appointment” of Mrs. Dunderdale as interim leader when Danny Williams resigned?

3. Was the Energy Plan of the day the only document leading Nalcor down the “garden path” towards oblivion at whatever cost?
4. Who was responsible for reviewing the Energy Plan if it was seen that it may not be feasible.
5. Could the project have been scrapped had it not been for the Energy Plan?
6. Could the government of the day and the government now in power have adjusted the Energy Plan when they saw that costs were rising well beyond what was originally quoted?
7. Was the Project a political decision, to build the project and spend the money to create economic “activity” with little thought for the future generations who would have to pay for the project? (JOBS again)
8. Was the government of the day complicit in the plans of Nalcor to provide little information as to the alternatives because of the Energy Plan and because of the economic activity that a MEGA project would bring to the Province?

(c) The powers, duties and responsibilities of a Crown Corporation:

GRK and LLP members as well as many in the Province are convinced that Nalcor’s powers are too far reaching and that in order to keep future projects in check, all Crown Corporations must be accountable to the Government and that laws must be in place to ensure that Government is accountable to the people. Oversight must be “totally independent” of the Proponent and any entity providing funding for a project; the independent oversight of any future project must report regularly on all aspects of the project so that finances are followed more regularly, whether or not the names of contractors are divulged is immaterial, however, all financial spending of Taxpayer or Ratepayer funds must be reported as funds are spent and any anomalies like methods of financing that are out of the ordinary etc. must be thoroughly understood by the public before a project is allowed to proceed to sanction...

We sincerely hope that recommendations coming out of this Commission will be strong on this kind of accountability.

Section 7:

“The commission of inquiry shall not express any conclusion or recommendation regarding the civil or criminal responsibility of any person or organization. “

While the Commission may not express any conclusion or recommendation regarding the civil or criminal responsibility of any person or organization, we adamantly hope that the RCMP will have representatives in the room during all hearings involved with this Inquiry such that should there need to be such conclusion or recommendation regarding civil or criminal responsibility of any person or organization, it will fall within the jurisdiction of the RCMP to do what is necessary to file any charges.

Thank you for considering our submission Judge LeBlanc and we note we have gone a page over the limit but hope that will not be a huge issue.

Sincerely,

Roberta Frampton Benefiel (Grand Riverkeeper Labrador)

Denise Cole (Labrador Land Protectors)

From: Roberta Benefiel
To: Admin
Subject: Fwd: Pennicon letter
Date: Thursday, February 15, 2018 7:40:48 PM

So sorry this was not sent with our submission but my internet is very slow and apparently photo files are a problem for my server.

Please add this to the file for the submission of Grand Riverkeeper Labrador and the Labrador Land Protectors.

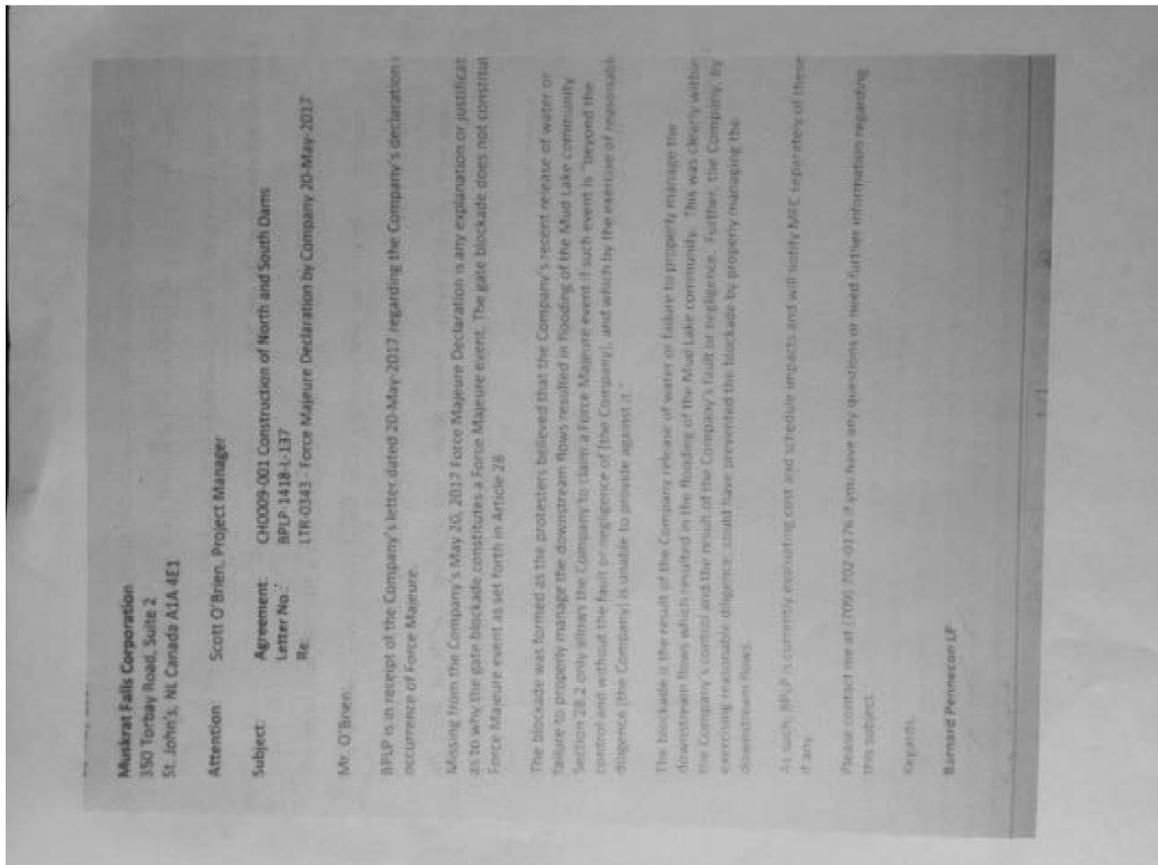
Thank you

Sent from Roberta

Begin forwarded message:

From: Roberta Benefiel <rebnfl@██████████>
Date: February 15, 2018 at 4:28:12 PM AST
To: Roberta Benefiel <rebnfl@██████████>
Subject: Pennicon letter

Here is the letter



Sent from Roberta