



Supreme Court of Newfoundland and Labrador dismisses application for injunction against Muskrat Falls development

July 29, 2013, St. John's, NL – On Friday, July 26, 2013, the Supreme Court of Newfoundland and Labrador, Trial Division (General), released its judgment in favour of the Respondents in the case between Applicant Brad Cabana and Respondents Nalcor Energy, Her Majesty the Queen in Right of Newfoundland and Labrador and Innu Nation.

Among other things, the Applicant asked the Court to declare the ratification vote held by Innu Nation for the Impacts and Benefits Agreement for the Lower Churchill Project, the Upper Churchill Redress Agreement, and the Agreement in Principle for the Innu Nation land claim as unconstitutional. The Applicant also sought to have work on the Muskrat Falls Project halted pending a referendum, and to have provisions of the Electrical Power Control Act (EPCA) relating to water management be declared as unconstitutional.

In dismissing the application, the Honourable Madame Justice Butler concluded that the application failed all three tests to be met in such a case. "On a preliminary assessment, I conclude that Mr. Cabana has not established either a serious legal issue to be tried, that he would suffer irreparable harm without a cessation of work on the Project, or that the balance of convenience favours him in granting such a declaration."

"We are pleased that the Supreme Court of Newfoundland and Labrador denied this application," said Gilbert Bennett, Nalcor Energy's Vice President of the Lower Churchill Project. "As stewards of the province's investment in Muskrat Falls, we are working diligently to avoid any unnecessary costs and delays, and to maintain the project budget and schedule, which ultimately benefits taxpayers in Newfoundland and Labrador."

Madame Justice has awarded costs to the Respondents stating, "...any individual pursuing a claim that is without merit has to understand that there are cost

consequences. Each of the Respondents has been required to retain and instruct counsel on a complicated matter warranting considerable time and expense.”

“The proceedings were underway for several months,” explained Bennett. “Given the determination by the Court, Nalcor intends to seek recovery of costs from Mr. Cabana as awarded by Madame Justice Butler.”

Nalcor also notes that subsequent to the decision, Mr. Cabana has incorrectly characterized the recent Hydro-Québec action in Quebec Superior Court as relating to water management and the EPCA. This is not the case, as the matter relates to interpretation of the 1969 Power Contract and the renewed Power Contract which will take effect in 2016, not the regulatory framework for water management in Newfoundland and Labrador and the Water Management Agreement between Nalcor Energy and Churchill Falls (Labrador) Corporation CF(L)Co.

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