LOWER CHURCHILL HYDROELECTRIC GENERATION PROJECT

# JOINT REVIEW PANEL

PROJET DE CENTRALE DE PRODUCTION D'ÉNERGIE HYDROÉLECTRIQUE DANS LA PARTIE INFÉRIEURE DU FLEUVE CHURCHILL

# COMMISSION D'EXAMEN CONJOINT

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**JOINT REVIEW PANEL**

Mr. Herbert Clarke
Ms. Lesley Griffiths
Ms. Catherine Jong
Dr. Meinhard Doelle
Mr. James Igloliorte

**International Reporting Inc.**
**41-5450 Canotek Road**
**Ottawa, Ontario**
**K1J 9G2**
**www.irri.net**
**1-800-899-0006**

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we will come back after lunch for questions for Environment Canada.

So if you're ready, please begin.

--- PRESENTATION FROM THE CANADIAN WILDLIFE SERVICE - ENVIRONMENT CANADA BY DR. AL HANSON:

DR. HANSON: Good morning, Members of the Panel, ladies and gentlemen.

My name is Alan Hanson and I'm the Head of Landscape Conservation for the Canadian Wildlife Service, Environment Canada.

And with me is my colleague, Scott Gilliland, who is the Waterfowl Biologist for Newfoundland and Labrador.

After my presentation, Scott will be making a separate presentation specifically addressing issues related to waterfowl.

My presentation will cover three main aspects: Legislation, as it pertains to the Canadian Wildlife Service and our mandate; policies, programs, plans and initiatives that influence our work and our analysis of the potential impacts of the proposed project, and, lastly, I will provide detail on Environment Canada, CWS' environmental assessment analysis as it pertains to migratory birds, species at risk,

and wetlands.

I think at the outset it's important to reiterate that with regard to this Joint Review Panel that Environment Canada is a federal authority with expertise pertaining to migratory birds, species at risk and wetlands. We do not have a decision-making or permitting responsibility as it pertains to the proposed project.

There are three main pieces of legislation that I wanted to highlight in our presentation. The first is the *Canadian Environmental Assessment Act* which requires that project impacts be addressed in an integrated manner.

For wetlands, the links between wetland functions, their derived values and the components of the ecosystems must be considered holistically, as wetlands do not function in isolation. So, a key point there is, I see wetlands as a continuum from fish habitat as you move up in elevation.

Secondly, it's important to identify the *1916 Migratory Bird Convention Act* and associated amendments and regulations.

Environment Canada is responsible for administering the *Migratory Bird Convention Act*, which implements the 1916 Migratory Bird Convention between Canada and the United States, and it protects and conserves migratory birds, both as population and as individuals, as well as protecting their habitat, eggs, and nests.

Lastly, the *Species at Risk Act*, the purposes of the Act are to prevent wildlife species from becoming extirpated or becoming extinct; to provide for the recovery of wildlife species that are extirpated, endangered or threatened as a result of human activity; and to manage species of special concern to prevent them from becoming endangered or threatened.

There are a couple key policies, as well as initiatives that we wanted to highlight. The first is the federal policy on wetland conservation which articulates that the objective of the federal government, with respect to wetland conservation, is to promote the conservation of Canada's wetlands, to sustain their ecological and socioeconomic functions now and in the future.

And as well, we wanted to highlight the North American Bird Conservation

Initiative.

Division of NABCI -- excuse the acronyms; we'll have a few of them here today.

But division of NABCI is that population and habitats of North America's birds are protected, restored and enhanced, through coordinated efforts at international, national, regional, provincial and local levels, and that this is guided by sound science and effective management.

It's also important to note that the management of migratory birds is based on bird conservation regions and associated conservation plans.

Moving on to the Canadian Wildlife Service Environment Canada impact analysis of the proposed project, as it relates to migratory birds, first and foremost, land-clearing activities, if conducted during the breeding season, could result in the destruction of migratory birds, their eggs and nests.

Fledglings often rely upon parental help for food and protection, and clearing on a large-scale can displace birds from territories, food and shelter from predation.

It's very important to note that Migratory Bird Regulation 6A states that there is a prohibition to destroy or disturb nests or eggs.

Under the *Migratory Bird Convention Act* 5.1, there's a prohibition to pollute, which is described as the deposition of substances harmful to migratory birds in areas frequented by them.

There is no provision to allow these activities under permit. They are illegal -- period, full stop.

So with regard to migratory birds Environment Canada CWS recommends that in order to minimize impacts to breeding migratory birds, the Proponent avoids habitat destruction such as vegetation clearing, or initial grading at a minimum during the period between May 1 and July 31st of any year. We also expect the Proponent to use best management practices to minimize impacts on migratory birds.

With regard to the analysis of potential impacts on species at risk, the Proponent has correctly stated in the EIS that there are 12 species at risk that occur in Labrador. Of these species they can be categorized as species of

special concern which are at, relatively speaking, the lowest risk of extinction or extirpation. There is a group categorized as threatened and, lastly, there is a group of species classified as endangered. The endangered group are most at risk of extinction or extirpation.

So out of these 12 species it's important to note that only the harlequin duck, rusty blackbird, woodland caribou, common nighthawk, and olive-sided fly catcher are probable to occur within the project footprint. So there are five species at risk that occur within the project footprint.

Furthermore, it's important to note that the province of Newfoundland and Labrador has the jurisdictional lead for rusty blackbird and woodland caribou.

So Environment Canada CWS analysis focused on those avian species, migratory birds that were species at risk; namely, harlequin duck, common nighthawk, and the olive-sided fly catcher.

The impact analysis for species at risk rightly states that the proposed project will result in habitat loss for all three species. The extent of loss varies.

The Proponent environmental impact statement report estimates the following habitat loss due to the project: for common nighthawk, about 12 kilometres -- square kilometres; olive-sided fly catchers, 14 square kilometres; and for harlequin duck 26 linear kilometres of river.

This overall represents a small portion of the total available habitat for these species in Labrador.

It's also important to note that during the avian surveys, for common nighthawk there was one incidental sighting of common nighthawk. For olive-sided fly catcher, they were observed at four survey points out of 55. And harlequin duck occurs at relatively low numbers throughout the river, and Scott will be speaking more about the waterfowl aspects of the study later.

With regard to impact analysis for species at risk, it should be stated that currently breeding habitat availability is not a threat to the recovery of these three species.

Therefore, this loss of breeding habitat will result in a small-scale displacement of individuals and this is not believed to have a

significant population level effect at either a local level or at larger watershed or bird conservation region levels.

Overall, habitat loss is not believed to be a future cause of population decline -- breeding habitat loss.

With regard to recommendations pertaining to species at risk, the Canadian Wildlife Service recommends that to minimize impacts to migratory avian species at risk, to avoid habitat destruction such as vegetation clearing, initial grading, at a minimum between the period of May 1st and July 31st of any given year and ensure water levels are managed for the created reservoir during the breeding season to keep water levels relatively constant.

Moving on to the impact analysis for wetlands, the EIS and the Proponent stated that the assemblage of wetland species -- of wetland sparrow species present in the Lower Churchill River Valley is dependent on the availability of wetland and riparian habitat.

The amount of suitable habitat affected by the project form the basis for the assessment of potential impacts to wetland-dwelling

songbirds such as swamp sparrow, song sparrow, Lincoln's sparrow, and savannah sparrow.

The federal policy on wetland conservation with its objective of conserving the ecological and socioeconomic function of wetlands is the basis for Environment Canada's CWS comments on this proposed project. Effects of the project on wetland sparrows are directly related to wetland loss. So compliance to the federal policy on wetland conservation will also mitigate concerns for wetland sparrows.

Should the project proceed, the Proponent has estimated it will result in the loss of up to 60 percent of habitat for wetland-dependent sparrows in the Lower Churchill River Valley. The availability of wetland sparrow habitat outside of the riparian corridor is limited.

However, the Proponent has indicated that the creation of comparable habitat along the riparian fringe of the newly created reservoir is under consideration and has identified that it will encourage formation of riparian marsh wetland during construction.

Creation of suitable riparian

wetland habitat should be the subject of follow-up monitoring to confirm the effectiveness of this mitigation.

Our recommendations pertaining to wetlands are that the Proponent is encouraged to implement the federal policy on wetland conservation goal of no net loss of wetland function, first, by creating a comparable amount of riparian wetland habitat, by implementing a follow-up program to determine the effectiveness of habitat creation and, lastly, by committing to an adaptive management mechanism if the proposed mitigation fails to perform.

The creation of riparian wetland habitat should furthermore replace the lost habitat function for wetland sparrows.

So in summary, Environment Canada CWS recommends the following. Activities such as clearing, initial grading, should be undertaken outside of the migratory bird breeding season. That is either before nest initiation or after the young have fledged. It's important to be compliant with the migratory bird regulations and prohibitions on the destruction of nests and young.

Water level control protocols

through the project.

MR. MARCOCCHIO: Sixty (60) percent of the available habitat disappearing is fairly significant and the Proponent has suggested, but not committed himself, to creating that habitat.

First of all, it seems utterly ridiculous to -- the notion that 60 percent of the available habitat is going to be recreated. And as a biologist I think you well know that.

If you're -- I wonder why you refuse once again to make specific recommendations. If you can't out of the words "significant impact" -- has your ability to make recommendations been impaired from so clear a case of significant impacts?

CHAIRPERSON GRIFFITHS: And that is the final question. I don't know whether the presenters will be able to answer that, but please.

DR. HANSON: As the panel has indicated this morning, it is their job and their duty to administer the term "significant" to these impacts.

What we tried to convey through Environment Canada and our analysis is the relative

magnitude of these proposed changes.

CHAIRPERSON GRIFFITHS: Thank you.

Thank you, Mr. Marcocchio.

Now I'm going to turn to the panel for questions to the presenters.

CHAIRPERSON CLARKE: Ms. Rudkowski had a question.

CHAIRPERSON GRIFFITHS: Oh, did you, Ms. Rudkowski? I didn't see you. Do you have a -- I'll take one more question.

--- STATEMENT BY MS. CLARICE BLAKE-RUDKOWKSI:

MS. BLAKE-RUDKOWSKI: If I may, I just want to pick up where Bruno left off in respect to having our presentations given to you ahead of time.

And for the record, I would like to read the reply from Roberta for the benefit of the people here in the room and for the record. May I?

CHAIRPERSON GRIFFITHS: Yes, go ahead.

MS. BLAKE-RUDKOWSKI: Again, this is in reply to Mr. Michaud's request on behalf of the panel to have our submissions submitted or sent into the panel in advance.