Response to Applicant - Partial Access Granted
Form 4B

August 15, 2016

Dear [Redacted],

Re: Your request for access to information under Part II of the Access to Information and Protection of Privacy Act [Our File #: SNL-036-2016]

On July 29, 2016, Service NL received your request for access to the following records:

"I am looking to obtain a copy of an order/directive issued by an Occupational Health and Safety Officer at the Granite Canal hydroelectric site specific to emergency preparedness and response at the work site and surrounding areas. I understand that this order/directive was issued on or about October/November, 2015."

I am pleased to inform you that a decision has been made by Service NL to provide partial access to the requested information. Further to this, access to specific text within these records that would reveal personal information of individuals has been exempted from disclosure in accordance with the following section that is specified in section 40 of the Access to Information and Protection of Privacy Act (the Act):

Section 40(1): "The head of a public body shall refuse to disclose personal information to an applicant where the disclosure would be an unreasonable invasion of a third party’s personal privacy."

As required by section 8(2) of the Act, we have severed information that is unable to be disclosed and have provided you with as much information as possible.

In accordance with your request for a copy of the records, the appropriate copies have been enclosed.

Please be advised that you may appeal the department’s decision to provide partial access to the requested information by asking the Information and Privacy Commissioner to review. The appeal process is set out in section 42 of the Act (a copy of section 42 of the Act has been enclosed for your reference). A request to the Commissioner must be made in writing within 15 business days of the date of this letter or within a longer period of time that may be allowed by the Commissioner. Your appeal should identify your concerns with the request and why you are submitting an appeal to the Commissioner.
The address of the Office of the Information and Privacy Commissioner is as follows:

Office of the Information and Privacy Commissioner  
2 Canada Drive  
P. O. Box 13004, Str. A  
St. John's, NL A1B 3V8

Telephone: (709) 729-6309  
Toll-Free: 1-877-729-6309  
Facsimile: (709) 729-6500

You may also appeal directly to the Supreme Court Trial Division within 15 business days after you received the department's decision to provide partial access to the requested information. This process is set out in section 52 of the Act (a copy of section 52 of the Act has been enclosed for your reference).

Please be advised that the responsive records for this request will be published following a 72 hour period after the response is sent electronically to you or five business days in the case where records are mailed to you. It is the goal to have the responsive records posted to the Office of Public Engagement's website within one business day following the applicable period of time. Please note that requests for personal information will not be posted online.

If you have any further questions, please contact me by telephone at 709-729-7437 or by email at ellenhaskell@gov.nl.ca.

Sincerely,

ELLEN HASKELL  
ATIPP Coordinator

Enclosures
Disclosure harmful to personal privacy

40. (1) The head of a public body shall refuse to disclose personal information to an applicant where the disclosure would be an unreasonable invasion of a third party's personal privacy.

(2) A disclosure of personal information is not an unreasonable invasion of a third party's personal privacy where

(a) the applicant is the individual to whom the information relates;

(b) the third party to whom the information relates has, in writing, consented to or requested the disclosure;

(c) there are compelling circumstances affecting a person's health or safety and notice of disclosure is given in the form appropriate in the circumstances to the third party to whom the information relates;

(d) an Act or regulation of the province or of Canada authorizes the disclosure;

(e) the disclosure is for a research or statistical purpose and is in accordance with section 70;

(f) the information is about a third party's position, functions or remuneration as an officer, employee or member of a public body or as a member of a minister's staff;

(g) the disclosure reveals financial and other details of a contract to supply goods or services to a public body;

(h) the disclosure reveals the opinions or views of a third party given in the course of performing services for a public body, except where they are given in respect of another individual;

(i) public access to the information is provided under the Financial Administration Act;

(j) the information is about expenses incurred by a third party while travelling at the expense of a public body;

(k) the disclosure reveals details of a licence, permit or a similar discretionary benefit granted to a third party by a public body, not including personal information supplied in support of the application for the benefit;

(l) the disclosure reveals details of a discretionary benefit of a financial nature granted to a third party by a public body, not including

(i) personal information that is supplied in support of the application for the benefit, or

(ii) personal information that relates to eligibility for income and employment support under the Income and Employment Support Act or to the determination of income or employment support levels; or

(m) the disclosure is not contrary to the public interest as described in subsection (3) and reveals only the following personal information about a third party:
(i) attendance at or participation in a public event or activity related to a public body, including a graduation ceremony, sporting event, cultural program or club, or field trip, or

(ii) receipt of an honour or award granted by or through a public body.

(3) The disclosure of personal information under paragraph (2)(m) is an unreasonable invasion of personal privacy where the third party whom the information is about has requested that the information not be disclosed.

(4) A disclosure of personal information is presumed to be an unreasonable invasion of a third party's personal privacy where

(a) the personal information relates to a medical, psychiatric or psychological history, diagnosis, condition, treatment or evaluation;

(b) the personal information is an identifiable part of a law enforcement record, except to the extent that the disclosure is necessary to dispose of the law enforcement matter or to continue an investigation;

(c) the personal information relates to employment or educational history;

(d) the personal information was collected on a tax return or gathered for the purpose of collecting a tax;

(e) the personal information consists of an individual's bank account information or credit card information;

(f) the personal information consists of personal recommendations or evaluations, character references or personnel evaluations;

(g) the personal information consists of the third party's name where

   (i) it appears with other personal information about the third party, or

   (ii) the disclosure of the name itself would reveal personal information about the third party; or

(h) the personal information indicates the third party's racial or ethnic origin or religious or political beliefs or associations.

(5) In determining under subsections (1) and (4) whether a disclosure of personal information constitutes an unreasonable invasion of a third party's personal privacy, the head of a public body shall consider all the relevant circumstances, including whether

(a) the disclosure is desirable for the purpose of subjecting the activities of the province or a public body to public scrutiny;

(b) the disclosure is likely to promote public health and safety or the protection of the environment;

(c) the personal information is relevant to a fair determination of the applicant's rights;

(d) the disclosure will assist in researching or validating the claims, disputes or grievances of aboriginal people;
(e) the third party will be exposed unfairly to financial or other harm;

(f) the personal information has been supplied in confidence;

(g) the personal information is likely to be inaccurate or unreliable;

(h) the disclosure may unfairly damage the reputation of a person referred to in the record requested by the applicant;

(i) the personal information was originally provided to the applicant; and

(j) the information is about a deceased person and, if so, whether the length of time the person has been deceased indicates the disclosure is not an unreasonable invasion of the deceased person’s personal privacy.

Access or correction complaint (Section 42)

42. (1) A person who makes a request under this Act for access to a record or for correction of personal information may file a complaint with the commissioner respecting a decision, act or failure to act of the head of the public body that relates to the request.

(2) A complaint under subsection (1) shall be filed in writing not later than 15 business days

   a) after the applicant is notified of the decision of the head of the public body, or the date of the act or failure to act; or

   b) after the date the head of the public body is considered to have refused the request under subsection 16 (2).

(3) A third party informed under section 19 of a decision of the head of a public body to grant access to a record or part of a record in response to a request may file a complaint with the commissioner respecting that decision.

(4) A complaint under subsection (3) shall be filed in writing not later than 15 business days after the third party is informed of the decision of the head of the public body.

(5) The commissioner may allow a longer time period for the filing of a complaint under this section.

(6) A person or third party who has appealed directly to the Trial Division under subsection 52 (1) or 53 (1) shall not file a complaint with the commissioner.

(7) The commissioner shall refuse to investigate a complaint where an appeal has been commenced in the Trial Division.

(8) A complaint shall not be filed under this section with respect to

   a) a request that is disregarded under section 21;

   b) a decision respecting an extension of time under section 23;

   c) a variation of a procedure under section 24; or
d) an estimate of costs or a decision not to waive a cost under section 26.

(9) The commissioner shall provide a copy of the complaint to the head of the public body concerned.

Direct appeal to Trial Division by an applicant (Section 52)

52. (1) Where an applicant has made a request to a public body for access to a record or correction of personal information and has not filed a complaint with the commissioner under section 42, the applicant may appeal the decision, act or failure to act of the head of the public body that relates to the request directly to the Trial Division.

(2) An appeal shall be commenced under subsection (1) not later than 15 business days

   a) after the applicant is notified of the decision of the head of the public body, or the date of the act or failure to act; or

   b) after the date the head of the public body is considered to have refused the request under subsection 16 (2).

(3) Where an applicant has filed a complaint with the commissioner under section 42 and the commissioner has refused to investigate the complaint, the applicant may commence an appeal in the Trial Division of the decision, act or failure to act of the head of the public body that relates to the request for access to a record or for correction of personal information.

(4) An appeal shall be commenced under subsection (3) not later than 15 business days after the applicant is notified of the commissioner's refusal under subsection 45 (2).
REPORT:

Arrived on site with fellow OHS Officer Aiden Browne and met with [REDACTED] and [REDACTED] to conduct an inspection. At the time of the inspection, there was very little activity at the site as construction activities related to the work of Marine Contractors has been suspended by Emera. Blackstar has also been contracted by Emera to perform tree clearing work at the site but at the time of the inspection, there were no workers employed by Blackstar at the site (away from site on time off). As a result of the work suspension and work schedules there are only East Coast Catering workers at the site at this time. The low number of workers has resulted in less activity occurring at the camp and surrounding site.

Today's inspection included the water and sewer treatment facility and a discussion around the emergency response plan. There is a paramedic at the site and workers advise that there is a plan to contact air ambulance in the event of any life threatening emergency. Fire Wardens have been assigned and a fire drill has recently been conducted. However, workers at the site inform that they have not been trained in fire fighting procedures and the nearest fire department is several hours away (Millertown). The current plan is to evacuate the camp in the event of a fire [REDACTED] advised that Fire and Emergency Services personnel had recently been at the site to discuss issues related to emergency response. It became apparent during the inspection that workers at the site have not been trained in the use of fire extinguishers.

Orders attached.

A copy of this inspection/order report must be provided at the earliest possible opportunity to your OHS Committee, Worker Representative or Workplace Designate.
GOVERNMENT OF NEWFOUNDLAND AND LABRADOR
Service NL
Occupational Health and Safety Inspections Branch

ORDER FORM

Toll Free: 1-800-563-5471

EAST COAST CATERING LTD / O'CA
30 QUEENS ROAD
ST. JOHN'S
NL

Firm #: 2630
WCC #: 614432
Tel: 709-576-1741
Fax: 709-576-1742

Reference #: 0661639
SEP 10, 2015

TAKE NOTICE THAT YOU ARE TO COMPLY WITH THE FOLLOWING ORDER(S) ISSUED UNDER AUTHORITY OF THE OCCUPATIONAL HEALTH AND SAFETY ACT, REVISED STATUTES OF NEWFOUNDLAND AND LABRADOR 1990, CHAPTER 0-3 AS AMENDED AND REGULATIONS PASSED PURSUANT THERETO.

ORDER: 0661639-01

REGULATION: Part V - General Health & Safety Require
38 2- Emergency plan risk assessment

Where the risk assessment required by subsection (1) shows a need for evacuation or rescue, appropriate written procedures shall be developed and implemented and a worker assigned to coordinate their implementation.

TO WIT:

The employer shall provide documentation to the undersigned officer which indicates that the Emergency Response Plan for this site (ENL Document No.: D-00HS-0-700-00-021) has been reviewed by Fire and Emergency Services. Any recommendations that come from the review shall be forwarded to the OHS Division.

This Order shall be carried out on or before: SEP 30, 2015

ORDER: 0661639-02

REGULATION: Part V - General Health & Safety Require
41 1- Emergency training

A worker shall be given adequate instruction in the fire prevention and emergency evacuation procedures applicable to his or her workplace.

TO WIT:

The employer shall ensure that all of its workers at this site that may be required to use a fire extinguisher attend a training session in the proper use of fire extinguishers.

A copy of this inspection/order report must be provided at the earliest possible opportunity to your OHS Committee, Worker Representative or Workplace Designate.
This Order shall be carried out on or before: SEP 30, 2015

ORDER: 0661639-03

REGULATION: Part V - General Health & Safety Require
41 1- Emergency training

A worker shall be given adequate instruction in the fire prevention and emergency evacuation procedures applicable to his or her workplace.

TO WIT:

Following the review of Emergency Response Plan by Fire and Emergency Services, the employer shall ensure that all of its workers at this site are made aware of the plan and their role in it.

This Order shall be carried out on or before: OCT 15, 2015

ORDER: 0661639-04

REGULATION: Part VI - Occupational Health Requiremen
63 -c Emergency washing facilities

An employer shall ensure that access to emergency eyewash and shower facilities is not blocked by material or equipment; and

TO WIT:

The employer shall assess the access to all of its emergency eye wash stations at this site as a means of ensuring that the access is not blocked. Noted at the time of the inspection is a blocked emergency eye wash station in the water treatment building.

This Order shall be carried out on or before: SEP 17, 2015

ORDER: 0661639-05

REGULATION: Part VII - Personal Protective Equipment
85 1- Respiratory protection equipment

An employer shall select and provide appropriate respiratory protection equipment based on the respiratory hazard to which a worker is exposed and workplace and user factors that affect the performance and reliability of the equipment.

TO WIT:

A copy of this inspection/order report must be provided at the earliest possible opportunity to your OHS Committee, Worker Representative or Workplace Designate.
The employer shall conduct a review of the Material Safety data Sheets for controlled products used in the water/waste water treatment processes as a means of determining the required type of respiratory protection equipment. Appropriate respiratory protection equipment shall be provided based upon the review. Noted at the time of the inspection is that P100 particulate cartridges are being used for protection against the inhalation of chemicals.

This Order shall be carried out on or before: SEP 30,2015

ORDER: 0661639-06

REGULATION: Part VII - Personal Protective Equipment
83 - Respiratory protection program

Where required, an employer shall establish, implement and maintain, and revise where necessary, a written respiratory protection program in accordance with CSA Standard Z94.4 "Selection, Use and Care of Respirators".

TO WIT:

The employer shall ensure that all of its workers at this site that are required to wear a respirator pass a fit test for the type of respirator being worn. Additionally, the employer shall ensure that respirators are stored away from sources of contamination when they are not in use.

This Order shall be carried out on or before: SEP 30,2015

YOU ARE TO NOTIFY THE INSPECTOR IN WRITING UPON COMPLIANCE. FAILURE TO COMPLY WITH THE ABOVE ORDER(S) IS AN OFFENCE UNDER SECTION 67 OF THE OCCUPATIONAL HEALTH AND SAFETY ACT, RSNL 1990, CHAPTER 0-3 AS AMENDED.

AN ORDER MADE BY AN OFFICER MAY BE APPEALED, IN WRITING, TO THE ASSISTANT DEPUTY MINISTER WITHIN 7 DAYS OF THE ORDER.

Section 40(1)

Received By: [Redacted]
Position: [Redacted]

Return Address:
Provincial Bldg, Cromer Ave
Grand Falls, NL, A2A 1W9
Fax: (709) 292-4430

Officer's Name: Roberts, Welson

Date: SEP 10,2015
Time: 2:03PM

A copy of this inspection/order report must be provided at the earliest possible opportunity to your OHS Committee, Worker Representative or Workplace Designate.