April 17, 2014

Dear

Re: Your request for access to information under Part II of the Access to Information and Protection of Privacy Act [Our File #: OPE/2/2014]

On March 20, 2014 the Office of Public Engagement received your request for access to the following records/information:

“The number of times an ATIPP request has been denied based on the “power of a public body to disregard requests” section of the ATIPPA (section 43.1). Please breakdown each occurrence by department/agency/public body, text of request, specific section/reason for disregarding it, and the date.”

I am pleased to inform you that access to these records has been granted. In accordance with your request for a copy of the records, the appropriate copies have been enclosed.

The responsive records indicate that Nalcor has disregarded six requests pursuant to section 43.1. With respect to these six requests, Nalcor has advised the following:

They received the listed requests at the same time from the same applicant. These requests were very broad and encompassed a significant number of records and information. The requests were also repetitive, in that the various requests overlapped, asking for the same records, sometimes explicitly the same and other times by a different word that meant the same thing (“communications”, “correspondence”, “transmittals”). They were systematic in that when read together, the requests in essence ask for access to every record in Nalcor’s possession relating to the Canadian offshore Production Licenses, Significant Discovery Licenses and Exploration licenses. For Nalcor to process these requests as worded, it would take countless hours and a tremendous amount of resources. Nalcor therefore attempted to work with the Applicant to focus the requests so that they could determine more specifically what information the Applicant wanted to access. They exchanged multiple emails with the Applicant in this regard, but were unsuccessful in narrowing the requests. As a result, these requests were disregarded pursuant to the section 43.1 of the Access to Information and Protection of Privacy (ATIPP) Act.

The responsive records also indicate that the NL English School District disregarded one request pursuant to section 43.1. With respect to this request, the School District has advised the following:

The request was disregarded pursuant to paragraph 43.1(1)(b) which states that a public body can disregard a request if it is frivolous or vexatious. In addition to citing s.43.1(1)(b), the School District also cited paragraph 10(1)(b) of the ATIPP Act which states that a public body shall produce a record in electronic format where producing it would not interfere unreasonably with the operations of the public body. Due to the broad nature of this request it would have unreasonably interfered with the School District’s operations to process this request. However, subsequent to this request being
disregarded the School District worked with the applicant who subsequently submitted requests relating to some of the information which was originally requested. The School District has responded to these requests.

Please be advised that responsive records will be published following a 72 hour period after the response is sent electronically to you or five 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 the ATIPP Coordinator, Sonja El-Gohary, at 709-729-7128, or sonjaelgohary@gov.nl.ca.

Sincerely,

Rachelle Cochrane
Deputy Minister
<table>
<thead>
<tr>
<th>#</th>
<th>Public Body</th>
<th>Text of Request</th>
<th>Sections cited</th>
<th>Date response sent to applicant</th>
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<tbody>
<tr>
<td>1.</td>
<td>Nalcor</td>
<td>Copies of all communications relating to interests Nalcor and/or Newfoundland Hydro obtained in Canadian offshore Production Licenses, Significant Discovery Licenses and Exploration licenses, for the timeframe 1990-March 8, 2013.</td>
<td>s.43.1(1)(a), s.43.1(1)(b), s.42.1(1)(c)</td>
<td>June 11, 2013</td>
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<td>2.</td>
<td>Nalcor</td>
<td>Copies of all agreements relating to interest Nalcor and/or Newfoundland Hydro obtained in Canadian offshore Production Licenses, Significant Discovery Licenses and Exploration licenses, for the timeframe 1990-March 8, 2013.</td>
<td>s.43.1(1)(a), s.43.1(1)(b), s.42.1(1)(c)</td>
<td>June 11, 2013</td>
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<td>3.</td>
<td>Nalcor</td>
<td>Copies of all records relating to seismic data regardless of the form in the possession of Nalcor and/or Newfoundland Hydro, for the timeframe 1990-March 8, 2013.</td>
<td>s.43.1(1)(a), s.43.1(1)(b), s.42.1(1)(c)</td>
<td>June 11, 2013</td>
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<td>4.</td>
<td>Nalcor</td>
<td>Copies of all Operating Agreements and related correspondence and records relating to interests held in Production Licenses, Significant Discovery Licenses, and Exploration licenses by Nalcor and/or Newfoundland Hydro for the timeframe 1990-March 8, 2013.</td>
<td>s.43.1(1)(a), s.43.1(1)(b), s.42.1(1)(c)</td>
<td>June 11, 2013</td>
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<td>5.</td>
<td>Nalcor</td>
<td>Copies of correspondence and transmittals between Nalcor and/or Newfoundland Hydro and other interest holders in each Production License, Significant Discovery License, and Exploration license where Nalcor has an interest, for the timeframe 1990- March 8, 2013.</td>
<td>s.43.1(1)(a), s.43.1(1)(b), s.42.1(1)(c)</td>
<td>June 11, 2013</td>
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<td>6.</td>
<td>Nalcor</td>
<td>Records, lists, correspondence, invoices, inventories, transmittals relating to all seismic information, including items that contain seismic information, that has been or is in the possession Nalcor and/or Newfoundland Hydro, for the timeframe 1990 -March 8, 2013.</td>
<td>s.43.1(1)(a), s.43.1(1)(b), s.42.1(1)(c)</td>
<td>June 11, 2013</td>
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<td>7.</td>
<td>Eastern School District (currently part of NL English School District)</td>
<td>I wish to obtain all personal information on me outside my personnel file that has not been otherwise disclosed to me through my ATIPP requests to ESD dated January 22, 2013, including emails that mention me in any way, dating from September 1st, 2009 to this present date, and contained in any email or other correspondence to or from 56 people (refer to file for listed names).</td>
<td>s.43.1(1)(b), s.10(1)(b)</td>
<td>June 28, 2013</td>
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**Power of a public body to disregard requests**

**43.1** (1) The head of a public body may disregard one or more requests under subsection 8(1) or 35(1) where

(a) because of their repetitive or systematic nature, the requests would unreasonably interfere with the operations of the public body or amount to the abuse of the right to make those requests;

(b) one or more of the requests is frivolous or vexatious; or

(c) one or more of the requests is made in bad faith or is trivial.

(2) Where the head of a public body so requests, the commissioner may authorize the head of a public body to disregard a request where, notwithstanding paragraph (1)(a), that the request is not systematic or repetitive if, in the opinion of the commissioner, the request is excessively broad.

(3) The head of a public body who refuses to give access to a record under this section shall notify the person who made the request, and that notice shall contain the following information:

(a) that the request is refused because the head of the public body is of the opinion that the request falls under subsection (1) and of the reasons for the refusal;

(b) that the request is refused because the commissioner has authorized the head of a public body to disregard a request under subsection (2) and of the reasons for the refusal; and

(c) that the person who made the request may appeal to the commissioner or the Trial Division under section 43.

**Access to records in different or electronic form**

**10.** (1) Where the requested information is in electronic form in the custody or under the control of a public body, the head of the public body shall produce a record for the applicant where

(a) it can be produced using the normal computer hardware and software and technical expertise of the public body; and

(b) producing it would not interfere unreasonably with the operations of the public body.

(2) Where a record exists, but not in the form requested by the applicant, the head of the public body may create a record in the form requested where the head is of the opinion that it would be simpler or less costly for the public body to do so.