Re: Your request for access to information under Part II of the Access to Information and Protection of Privacy Act (File # NR-14-2019)

On February 12, 2019, the Department of Natural Resources received your request for access to the following records/information:

NR report with the title "An Analysis of the Industrial Benefits Made Possible by the Existence of the Atlantic Accord". Date: March 6, 2011
NR file Number: RPT-11:11.

The Department of Natural Resources is withholding this report in full under sections 34(1)(a)(i), 35(1)(d), 35(1)(f) and 35(1)(g) of ATIPPA, 2015. Notwithstanding the decision to withhold the report in full under the previously noted sections of ATIPPA, 2015, specific portions of the report would otherwise also be withheld under sections 29(1)(a), 35(1)(d), 35(1)(f), 35(1)(g), 39(1)(a)(i), 39(1)(a)(ii), 39(1)(c)(i), 39(1)(c)(ii), 39(1)(c)(iii) and 39(2) as follows:

29(1)(a) The head of a public body may refuse to disclose to an applicant information that would reveal advice, proposals, recommendations, analyses or policy options developed by or for a public body or minister;

34(1)(a)(i) The head of a public body may refuse to disclose information to an applicant if the disclosure could reasonably be expected to harm the conduct by the government of the province of relations between that government and the following or their agencies: the government of Canada or a province,

35(1)(d) The head of a public body may refuse to disclose to an applicant information which could reasonably be expected to disclose information, the disclosure of which could reasonably be expected to result in the premature disclosure of a proposal or project or in significant loss or gain to a third party;
35(1)(f) The head of a public body may refuse to disclose to an applicant information which could reasonably be expected to disclose positions, plans, procedures, criteria or instructions developed for the purpose of contractual or other negotiations by or on behalf of the government of the province or a public body, or considerations which relate to those negotiations;

35(1)(g) The head of a public body may refuse to disclose to an applicant information which could reasonably be expected to disclose information, the disclosure of which could reasonably be expected to prejudice the financial or economic interest of the government of the province or a public body.

39(1)(a)(ii) The head of a public body shall refuse to disclose to an applicant information that would reveal commercial, financial, labour relations, scientific or technical information of a third party;

39(1)(b) The head of a public body shall refuse to disclose to an applicant information that is supplied, implicitly or explicitly, in confidence

39(1)(c)(i) The head of a public body shall refuse to disclose to an applicant information the disclosure of which could reasonably be expected to harm significantly the competitive position or interfere significantly with the negotiating position of the third party,

39(1)(c)(ii) The head of a public body shall refuse to disclose to an applicant information the disclosure of which could reasonably be expected to result in similar information no longer being supplied to the public body when it is in the public interest that similar information continue to be supplied,

39(1)(c)(iii) The head of a public body shall refuse to disclose to an applicant information the disclosure of which could reasonably be expected to result in undue financial loss or gain to any person

39(2) The head of a public body shall refuse to disclose to an applicant information that was obtained on a tax return, gathered for the purpose of determining tax liability or collecting a tax, or royalty information submitted on royalty returns, except where that information is non-identifying aggregate royalty information.

With respect to the selected lines, paragraphs, tables, and/or pages of the report we can advise that parts of this document contains references to non-aggregate royalty information that must be withheld under S.39(2); that portions of this report contains confidential third party business information that if released would be harmful to the business interests of said third parties and therefore must be withheld under the aforementioned sections of 39; and that portions of this report contains analysis that informs current policy advise and therefore is being withheld under S.29(1)(a).
Furthermore, as you are aware there is a current and on-going review of the Atlantic Accord and the release of any of the report could compromise ongoing negotiations between the governments of Newfoundland and Labrador and Canada which is why it is being withheld in full under S.34(1)(a)(i). Likewise, the release of any of this report could reasonably be expected to be harmful to the financial or economic interests of a third party which is why it is being withheld in full under S.35(1)(d). Also, as it could reasonably be expected to be harmful to the financial or economic interests of the government of Newfoundland and Labrador it is being withheld in full under S.35(1)(g). Finally, as it contains information that relates to the negotiating position of the province of Newfoundland and Labrador it is being withheld in full under S.35(1)(f).

As set out in section 42 of the Act you may ask the Information and Privacy Commissioner to review the department’s decision to provide access to the requested information. 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 that may be allowed by the Commissioner. Your request should identify your concerns with the department’s response and why you are requesting a review.

The request for review may be addressed to the Information and Privacy Commissioner is as follows:

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

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

Pursuant to section 52 of the Act, you may also appeal directly to the Supreme Court Trial Division within 15 business days after receiving the department’s decision.

Please be advised that responsive records 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 Completed Access to Information Requests website within one business day following the applicable period of time. Please note that requests for personal information will not be posted online.

For further details about how an access to information request is processed, please refer to the Access to Information Policy and Procedures Manual at http://www.atipp.gov.nl.ca/info/index.html.
If you have any questions, please feel free to contact me at 709-729-0463 or rhynes@gov.nl.ca.

Sincerely,

Rod Hynes

Rod Hynes
ATIPP Coordinator