

April 16, 2011

The Honourable John Wilkinson
Minister of the Environment
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Dear Mr. Wilkinson:

**Request for Minister's Review of Director's Decision that an
Individual Environmental Assessment is Not Required
for the
Proposed Bala Falls Hydro-electric Generating Station**

Reason for Request

Minister Wilkinson, I attended your speech last November at the *Town Hall Meeting on the Water Opportunities & Water Conservation Act*, organized by Professional Engineers Ontario. I was impressed at your explanation of handling complex decisions by relying on the science.

Unfortunately, in this situation, too much of the crucial information presented by the proponent is not science-based and factual – and it appears that the Director of the Environmental Assessment and Approvals Branch has accepted this.

Background

We have carefully reviewed the March 25, 2011 letter sent by the Director informing us of the decision that an individual environmental assessment is not required. We believe this decision was made in error, as it is based on incorrect and incomplete information, for example:

- **Information provided by proponent is incomplete or incorrect**
 - The noise assessment included only two of the five noise sources, and assumed the concrete structure would not have any openings when in fact it would have many – and the large fans in these openings would make additional noise of their own (which again, is not included in the calculations).
 - The flow distribution committee's input was completely ignored, even though the proponent carefully controlled all aspects of their work.
 - Proponent claims the sound of the falls would mask the noise from the proposed generating station, but they ignore the fact that the water over the falls would be reduced by 94%, so there would be no such masking.
 - Proponent claims fan noise would be directed towards existing noise sources, even though this would be impossible according to the proponent's own drawings.

- **Conclusions are reached without justification**
 - Just because there is one small “no swimming” icon above the north falls doesn’t mean the entire area is considered unsafe for swimming.
 - The proponent concludes (and Director repeats) that more tourists would visit Bala because of the proposed public viewing area. We contend people will not drive to Bala to stand on a concrete platform to see where the falls used to be. The only science-based way to confirm the proponent’s statement would be to interview tourists, which the proponent elected not to do.
- **Important details are ignored**
 - The proponent would be required to cycle the operation of the proposed generating station, but has not included the resulting major implications in their environmental screening report.
 - The proponent has not determined the net residual effects, for example, the impact on tourism due to the 94% reduction in scenic flow over the falls.
- **Issues raised by the public are ignored**
 - To protect the public’s interest, it should be required that the proponent post a completion bond. This was noted in our Technical Report, but has not received a response.
- **Inconsistent information is accepted without question**
 - The proponent’s structure is accepted as having a public look-out when their own drawings show the view would be obstructed by a 5’-high hoist mechanism which is the width of the entire facility.
 - The structure is shown with the required ventilation openings completely covered by backfill and landscaping.
- **Approvals are accepted beyond their jurisdiction**
 - Transport Canada’s mandate is marine navigation, but their safety boom approvals are accepted for in-water recreational purposes.
- **Environmental Screening Report is incomplete**
 - We now know that the proposed generating station would cycle its operation daily, at least the summer, and at least up to 1/3 of its capacity, and this has many public safety and habitat implications. The environmental screening report and the letter of intent provided to Fisheries and Oceans Canada does not include this important change.
- **Assumes issue would be resolved later**
 - The proponent has demonstrated that they are completely inflexible, the only opportunity for change or clarification for fundamental issues is as part of the environmental assessment.

We have attempted to resolve these concerns not only with the proponent, but also directly with the agencies, and have had no response. For example, Transport Canada does not reply to our upstream safety boom design concerns, and the Ministry of the Environment (“MOE”) does not respond to our noise assessment concerns.

Furthermore, the cumulative effects are completely ignored, and the environmental screening report does not include a review of the overall environmental advantages and disadvantages, as is required.

The detail of our concerns is presented below in the Section, "Specific Environmental Concerns".

We are encouraged that the stated purpose of the Environmental Assessment Act is "*the betterment of the people of the whole or any part of Ontario by providing for the protection, conservation and wise management in Ontario of the environment*", and look forward to this being fairly applied to:

- 1) Acknowledge the public safety concerns, especially now that we have confirmation the proposed generating station would utilize the more dangerous cycled operation (and this operation would be daily, at least in the summer).
- 2) Properly evaluate the impact of the required and expected cycling operation of the proposed power station on the shoreline and benthic habitats.
- 3) Recognize that the Bala Falls are the *Distinctive Core Attractor* (as defined by the Ministry of Tourism and Culture) for the area, and is therefore fundamental to the *Product Dimension* that Bala needs to compete with other tourist destinations, and that destroying the draw of the falls would therefore have an economic multiplier effect that would ripple throughout the area.

We therefore request that the Director's decision that an individual environmental assessment is not required be reviewed because, as detailed below, the proponent has not addressed the science, has not fulfilled its obligations to show that negative environmental impacts have been adequately mitigated, has not provided a review of the overall environmental advantages and disadvantages, and has not provided answers to questions the community has been asking for years.

Only an individual environmental assessment will allow the public to have direct input into the terms of reference, so that it can be assured that the questions being asked will finally be answered.

Sincerely,



Mitchell Shnier, P. Eng., on behalf of SaveTheBalaFalls.com

Cc: Karen McGhee, Project Manager, Swift River Energy Limited, KMcGhee@m-k-e.ca
Anthony Zwig, President, Swift River Energy Limited, AZwig@horizonlegacy.com

Specific Environmental Concerns

Background

My name is Mitchell Shnier, I am a Professional Engineer, licensed to practice in the province of Ontario, and my day-to-day engineering work involves detailed review of other's technical work; for completeness, for safety, and for consistency. Currently, my assignments include communication systems for coal mines, shutdown systems for nuclear reactors, and location tracking systems for public transit vehicles. For over 25 years, I have applied the same principles and methods to a diverse range of assignments: A thorough review of the available information, communication with involved parties, analysis and reporting.

While entirely on a volunteer basis, this work evaluating the proponent's proposal and other documents, and now reviewing the Director's decision is the same type of work I do professionally, and I use the same attention to objectivity and fairness.

I should add that our extended-family's cottage is not on the Moon River or Bala Bay / Lake Muskoka, so we would not be directly affected by this proposed project. I am involved for the same reason so many others are, while we are fine with change, this would be a change entirely for the worse – worse for the full-time and seasonal residents of Bala, for potential visitors to Bala, and for the area's businesses. It is simply not worth the small amount of energy which would be produced to ruin the businesses and economy of Bala and create these many dangers to the public.

I have gathered information from the community as input for this request for the Minister of the Environment to review the March 25, 2011 recent decision by the Director of the Environmental Assessment and Approval Branch to deny the elevation request submitted in 2009 by SaveTheBalaFalls.com.

Ministries

We are also concerned that several provincial Ministries appear to be conflicted:

- 1) The Ministry of Natural Resources (MNR) work includes (quoted from their web site) "Promoting, marketing and enhancing the protection of natural heritage in southern Ontario" and they are also responsible for "Fish & Wildlife Management – sustainably managing Ontario's fish and wildlife resources". And yet, they have a requirement to offload the management of water levels and maintenance of dams.

And the facts are that:

- a) The proposed generating station's turbine would kill a large proportion of fish that are pulled into it.
- b) The diversion of the water through the proposed generating station would reduce the required flow over the spawning areas and also the time available for fish spawning.
- c) The proposed cycling operation of the proposed generating station would create an unnatural flow in fish habitat areas.

- d) The construction would destroy fish habitat and it is not known whether the proposed new habitat areas to be constructed would be adequately effective.
- 2) The Ministry of the Environment is responsible for evaluating the proponent's noise assessment, and yet they are also responsible for approving the proposed project. Their mandate to evaluate the project perhaps was the reason they were unresponsive in allowing communication to those that approved the proponent's noise assessment, which is required to understand why they approved the proponent's incomplete work.
 - 3) The Ministry of Tourism and Culture:
 - a) They have a program to support Ontario's resource-based tourism industry, which is defined as "tourism based on using and enjoying the natural environment and resources on Crown lands and waters." And yet, the MNR and the Ministry of Energy obviously want to use the crown land and water for power generation instead.
 - b) They cannot be seen to be favouring one area over others, so apparently cannot designate the Bala area in any special manner, even though the MOE expects they would.

We are therefore concerned that such conflicts within these Ministries is affecting their objectivity in providing complete and unbiased information as would be required for the Director to fairly evaluate the elevation requests.

We are also concerned that approvals for safety boom design and location are being provided by Transport Canada only for their mandate of marine navigation, but that these approvals are also being interpreted as being applicable for in-water recreation safety, such as swimming.

Residual Cumulative Effects

We note the Canadian Environmental Assessment Act refers to consideration of "any cumulative environmental effects that are likely to result from the project in combination with other ... activities that ... will be carried out". This is a concern for this proposed project as all of the following would certainly occur:

- The scenic flow would be reduced by 94% over all months except March and April. And the only boat rental business in the area would cease, and scuba diving from Diver's Point would be too dangerous.
- Over 500' of the only publically-accessible shoreline in the area would be restricted.
- There would be a 100'-long poured-concrete structure, rising 20' above the Moon River in full view of the most common vantage point in Bala. The blasted rocks piled up the side would not be the natural beauty for which people would make a trip to Bala.

Obviously, the local economy would be impacted, but the proponent made no effort to talk to tourists, or ask business owners what the economic impact would be, so this would be a complete gamble with the future of Bala.

The "big picture" of all net effects combined needs to be examined as part of the environmental assessment for this proposed project.

Overall Environmental Advantages and Disadvantages

We note Section B.2.3 of the Guide to Environmental Assessment Requirements for Electricity Projects (“Electricity Guide”) requires the environmental screening report to include “a review of the overall environmental advantages and disadvantages of the project, to include discussion of any benefits that may offset negative environmental effects” This has not been provided and is a major omission, especially as an overall evaluation of this project has not been presented by the proponent nor evaluated by the MOE.

Furthermore, we note that in the environmental screening report, Table 7.1 provides completely unjustified statements, including the following:

- 1) Surface Water Hydrology: There would be no negative operation impacts due to the proposed decreased flows over the dams. Reference is also made to run-of-river operation, which would no longer be the case.
- 2) Aquatic Habitat: The statements concerning aquatic habitat need to be updated, given the cycling operation requirement.
- 3) Local Businesses: There statement that would be no operational impact on local businesses is completely unjustified. It was when this report was written (before the economic impact study had been initiated), and even more so now that the economic impact study has been discredited.
- 4) Public Use and Access: The claimed “*aesthetic enhancement of land area for public viewing of falls and Bala Reach*” has no supporting evidence. People come to Bala to see the natural beauty, not stand on a concrete building with artificial landscaping on top, just as one can see on the condominium parking garages in Toronto.

Introduction to Unaddressed Concerns

While we appreciate the need to balance the needs of Ontarians with environmental impacts, this evaluation cannot even begin with the unscientific information presented by the proponent.

The proponent has not adequately mitigated the negative environmental impacts of their proposed generating station, and we contend that the Director has not held the proponent, and the information they have offered, to an acceptable level of scientific rigor.

As evidence, we provide detail in Table 1 below, which is organized in three columns, as follows:

1) Issue

Issues presented were detailed in our document *Comments on the Environmental Screening Report for the North Bala Small Hydro Project, Technical Report*, dated November 27, 2009 (our “Technical Report”), which was submitted as part of the SaveTheBalaFalls.com elevation request during the public comment period for the proponent’s environmental screening report.

2) Director's Response

This is a summary, often including a direct quote, of the Director's response to our elevation request, as provided in the decision letter dated March 25, 2011.

3) Unaddressed Concern

This details our concern that the Director's response failed to address.

We request that any response to us only address the issues we raise in this request for review.

Issue	Director's Response	Unaddressed Concern
Noise assessment	Director claims we stated " <i>that the impacts due to noise and vibration have been virtually ignored</i> ".	<p>No, the substantial work done was acknowledged, as we referenced the noise calculations in Appendix C1 of the environmental screening report, and in fact also received an additional response from the proponent.</p> <p>However, the proponent's work is still unacceptably incomplete. For example <u>only two of the six sources of noise</u> which would be produced by the proposed project were included in the proponent's noise calculations.</p> <p>Specifically, the noise which would be produced by the; turbine, electrical generator, inverter electronics, and building cooling fans was not included in the proponent's noise calculations.</p> <p>There is no justification provided for why these significant noise sources have not been included in the proponent's calculations.</p>
	Director notes " <i>As part of this assessment, SREL determined the baseline sound level limits at five points of reception (POR) near the proposed Project.</i> "	<p>The POR were all selected to be at least 185' from the proposed generating station, even though the public look-out would be (literally) directly on top of the structure. The POR should include the locations where people will be expecting the "park-like setting" described by the proponent – directly on top of, and on the path beside, the proposed structure.</p> <p>Furthermore, the proponent has claimed that if noise levels are found to be too high, they would "use an acoustically treated ventilation hood at the openings". <u>Evidence must be provided that such a device is available</u>, showing both the volume of exhaust air it could handle, and the sound attenuation provided.</p> <p>The proponent continues to ignore this major net effect of noise. More complete noise calculations can and must be presented as part of the environmental assessment. This flagrant attitude of "let's just get started and hope it all works out" is disrespectful of the process, the public, and is not scientifically sound.</p>
	Director notes " <i>noise produced from the Project will be masked by the existing ambient noise and will not be significantly noticed by the surrounding population</i> ".	<p>This would not be true. The Director notes one source of this ambient masking noise is "<i>produced primarily by the north Falls itself and ...</i>".</p> <p>Note that except for 9 weeks in the spring, 94% of the water would go through the proposed generating station (see Figure 1 below). That is, for most all of the year, the water going over the falls would be just 6% of what it is currently, so obviously this would <u>no longer be a source of background ambient noise</u> capable of masking anything. Note that the water exiting the proposed generating station would be discharged below water level, so would not result in any useful amount of masking noise. Therefore, this claim of masking needs further analysis.</p>

Issue	Director's Response	Unaddressed Concern
	<p>Director notes proposed mitigation measures include "<i>locating generator cooling fans in areas where the exhaust directionality is toward existing sources of noise, such as Muskoka Road 169 and the railway line.</i>"</p> <p>Director notes "<i>MOE technical staff subsequently confirmed to SREL that it has no outstanding concerns</i>".</p>	<p>This could not be done. Firstly, a few trains per day don't provide any continuous source of noise that could mask that from the proposed generating station. Similarly, the level of traffic on Muskoka Road 169 would not mask anything, but in any case, such a claim needs to be backed-up by measurement, and none is provided.</p> <p>Second, the proponent's own drawings (<i>Powerhouse Plan and Sections, Alternative 2D, Revision September 19, 2008</i>) show this <u>would not be possible</u>, as the proposed structure is below grade in the direction towards the road and railway line.</p> <p>Third, the proponent's drawings show many large cooling fans (which would generate their own noise), and the three large 3½' x 2½' openings for them (which would allow the noise from the machinery inside to escape) directed at, and within a few feet of the public and the only path they could use to reach the water.</p> <p>Finally, the proponent's drawings show there would need to be three large (13' x 13') removable hatches and an emergency egress hatch in the roof (that is, people on the proposed look-out would be standing on these), and these too would allow the noise inside to escape and be heard by those trying to appreciate the natural beauty of the area. There is no information provided by the proponent as to why noise escaping through these roof hatches has not been included in their noise calculations.</p> <p>That may be so, but the MOE technical staff have not justified how they can not be concerned that the proponent's noise assessment is so blatantly deficient. The <u>science can only be right if all the noise sources and the building openings are included in the calculations</u>. It may be that the proponent has assumed that some noise sources would not be significant, if so, this should be shown with calculation, not speculation.</p> <p>Furthermore, due to the sensitive nature of this proposal (the proponent repeatedly claims the look-out would be "park like"), there has been no vibration analysis done to ensure people don't feel that they are standing on a humming factory (which in fact they would be).</p> <p>I attempted to contact the MOE technical staff so this could be discussed, but the MOE would not respond to my request.</p>

Issue	Director's Response	Unaddressed Concern
Scenic flow	<p>Director notes “<i>The existing MRWMP stipulates that a summer minimum of 1 m³/s be released at each of the two Dams. The ESR documents proposed flows of 1 m³/s over the North and South Dam throughout the year with an increase to 2 m³/s proposed at the South Dam during the summer tourist (viewing) period.</i>”</p>	<p>This statement is not correct. The existing Muskoka River Water Management Plan (“MRWMP”), Table 5.2 <i>Existing Flow and Water Level Operating Constraints for Muskoka River Dams</i>, row “Bala North and South Dams” notes “<u>Minimum outflow of 3.0 m³/s from each dam</u> is to be maintained by leakage or log removal to maintain downstream water quality”.</p> <p>Second, any reduction (such as to the 1 m³/s or 2 m³/s as proposed), or even to allow only 3 m³/s over the falls throughout the year has no justification from a community and tourist viewpoint, despite attempts at input by the proponent’s own flow distribution committee (see below).</p> <p>Third, the tourism economy of Bala is important year-round, for example:</p> <ul style="list-style-type: none"> • As noted in the District Municipality of Muskoka’s Official Plan, dated October 15, 2008, goal C.23 is “<i>Efforts to make commercial tourism year round will be supported.</i>” • On October 21, 2008 the Township of Muskoka Lakes passed Resolution Number C-14-21/10/08 which included a requirement that “the environmental screening process takes into consideration the potential impact that the proposed construction may have on Bala’s economy, including its important winter economy ...”. • The MRWMP (Section 6.1.2) notes “Recreational season has expanded beyond the traditional ‘July/August’ summer period to span from early May to late October – more recreational users for a longer time period.” <p>However, as shown in Figure 1 below, the:</p> <ul style="list-style-type: none"> • Flow over the north Bala Falls would be reduced from a wide variety of flows to a consistent 1 m³/s (except for perhaps a few days in April). That is, there would be nothing to look at year-round. While this may be something safe to splash in in August, it would not draw people to Bala. • Flow over the south Bala Falls would be also be reduced to basically nothing year-round, except for March and April. <p>If you ask people why they repeatedly visit the falls, you’ll find it is to see what they look like “today”. The variability is as important as the flow. The proponent would have learned this if they would interview residents, businesses, and tourists.</p> <p>Finally, we note that Mr. Steve Taylor of the MNR told the Flow Distribution Committee on October 13, 2010 that the summer flows over the north falls are typically 4 m³/s, and over the south falls are typically 7 m³/s. Two items of note:</p> <ul style="list-style-type: none"> • This means that the trickle of 1 m³/s or 2 m³/s of scenic flow offered by the

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		<p>proponent would be a significant reduction to the existing summer flows, and a major reduction for the remainder of the year.</p> <ul style="list-style-type: none"> The proponent's statements of the summer flow being maintained throughout the year are wrong and misleading: Firstly, the summer flow over the north falls is actually greater than they state. Second, the flow over the south falls is greater all the time and they neglect to mention this important point. <p>That is, tourism depends on something to see, and conformance to the MRWMP does not provide for this.</p> <p>Finally, the Electricity Guide requires "an assessment of the significance of any net effects or concerns", and as regards to the tourism impact, this has not been provided for the proposed 94% reduction in scenic flow over the falls.</p>
	<p>Director notes "<i>The ESR also states that the minimum flows required to operate the Project is 20 m³/s. Any incoming flows of 20 m³/s or less (which may occur during the summer season) will be distributed entirely over the two Dams and the Project will shutdown until the flow increases to operating conditions, i.e. water flows over 20 m³/s.</i>"</p>	<p>This is not correct, the December 16, 2010 agreement between the proponent and Ontario Power Generation (OPG) states that the proponent would be <u>required to cycle the operation</u> of the proposed generating station when there is less than 26 m³/s of flow.</p> <p>Therefore, the Director's statement about the flows of less than 20 m³/s being distributed over the two dams would be incorrect.</p>
	<p>Director notes that "<i>a Flow Distribution Committee (FDC) established by SREL, has been organized by SREL</i>".</p>	<p>This is meaningless given that the proponent chose to both prevent the Committee from finishing its work, and to <u>completely ignore the work done by the Committee</u>.</p> <p>Note that the proponent required and received complete control over this Committee, as stated by the proponent to Mr. Walt Schmid, Chief Administrative Officer of the Township of Muskoka Lakes, in a letter dated September 8, 2010, under the heading <i>Bala Flow Distribution Strategy Committee</i>: "<i>Therefore, to summarize: SREL, as the proponent, will be finalizing the membership, mandate, agenda, and presentation material for this group and inviting guest speaker(s) over the next couple of weeks</i>".</p> <p>In the same letter, the proponent confirms the understood purpose of the Flow Distribution Committee, as follows: "<i>SREL committed to establish a Flow Distribution Strategy Committee at the August 24, 2010 Township Council Meeting to review the comments made by the Township that the proposed flows over the South Dam were insufficient</i>".</p>

Issue	Director's Response	Unaddressed Concern
		<p>Obviously, the proponent understood that there was widespread concern that the scenic flow the proponent proposed in their environmental screening report was insufficient.</p> <p>Yet, ultimately, the proponent summarized the weeks of work by this volunteer Flow Distribution Committee in an e-mail to Mr. Adam Sanzo of the MOE, dated November 29, 2010 as follows:</p> <ul style="list-style-type: none"> • <i>“No decisions have come from these meetings as the recommendations for additional flow are excessively higher than (sic) what we have proposed.”</i> • <i>“Therefore, from the point of view of the ESR, there have been no changes to flow distribution plan provided in the ESR.”</i> <p>It should be noted that when they formed the Flow Distribution Committee, the proponent wrote that a fourth meeting would be held if necessary. However, the proponent <u>did not allow this fourth meeting to proceed</u>, so it could therefore be expected that the Committee was disappointed and surprised by this – and was not able to finish its work.</p> <p>If the proponent will not follow-up on their commitment for a fourth meeting, and cannot work with the recommendations produced by a Committee whose work they so tightly controlled, the proponent apparently never had any good faith intention to make any changes whatsoever. It should therefore be considered that the Flow Distribution Committee was never convened, the public was never consulted, and this work still needs to be completed before the proposed project receives environmental approval to proceed.</p>
	<p>Director notes <i>“SREL will ultimately determine if scenic flows over the North and South Dams are adequate or if modifications will need to be made to ensure the tourist industry and overall character of the area are not impacted.”</i></p>	<p>This statement cannot be justified. The MRWMP (Section 6.2.2) states: <i>“Public consultation is an integral component of the water management planning process”</i> and (Section 7.2.4, <i>Socioeconomic Environment</i>) states: <i>“The aesthetic value of Muskoka River falls and chutes is considerable...”</i>.</p> <p>The tone of the Director's comment intimates that whatever scenic flow is to be left for tourist draw and the enjoyment of the community is entirely to the discretion of this private developer.</p> <p>This water is a public resource and the stated purpose of the Environmental Assessment Act is <i>“the betterment of the people of the whole or any part of Ontario by providing for the protection, conservation and wise management in Ontario of the environment”</i>. The Director's statement <u>excludes the people of Ontario</u> from benefitting from this natural resource.</p>

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	<p>Director notes “I’m satisfied that SREL has assessed water flows and water levels in consultation with a number of agencies, including ...”</p>	<p>This consultation has been inadequate. We note that the proponent has <u>not consulted with the Ministry of Tourism</u> (it is noted in Section 3.5.6.2 of the environmental screening report that only the Ministry of Culture was consulted), and such consultation should be a requirement, given the important tourism, and therefore economic, aspects of scenic flows.</p> <p>First, the MTC promoted and assisted with the creation of a “Premiere-Ranked Tourist Destination framework” to help the District of Muskoka become “<i>better than the rest</i>” by improving their viability and competitiveness as a place people want to visit.”</p> <p>The resulting <i>Muskoka Assessment Project</i> is a 114-page report which notes that “... the Muskoka region faces increasingly stiff competition from neighbouring destinations, provinces and indeed other countries.”</p> <p>As examples of the competition <u>within</u> Muskoka for tourists, the document lists Muskoka’s inventory of significant assets, which includes the following:</p> <ul style="list-style-type: none"> • 53 businesses offering power boat rentals. • 8 popular scuba diving locations. • 60 popular waterfall, rapids, and chutes. <p>Note that the proposed project would:</p> <ul style="list-style-type: none"> • Shut down the only boat rental business in Bala. • Make Diver’s Point (so named because it is a popular location for scuba diving) too dangerous for scuba diving. • Reduce the flow over Bala’s north and south falls by 94% for 10 of the 12 months of the year. <p>That is, Bala <u>would no longer be able to compete</u> with the rest of Muskoka for tourists. This would be devastating to the area’s economy. You can’t be “better than the rest”, or even as good as them if you have no assets.</p> <p>Second, we note that none of the assets listed in the document ascribe any tourist draw to standing on a large and noisy concrete building with rocks left over from the construction blasting piled up the side, and looking at interpretive plaques – which the proponent claims would be an attraction.</p> <p>Third, the <i>Muskoka Assessment Project</i> report examines why people visit a particular tourist destination, and introduces the concept of a <i>Core Attractor</i>, as follows:</p> <p><i>“What it is (sic) about a destination’s attractors that make it distinct? And how relevant are these attractors to market needs? The evaluation process has identified Muskoka’s core attractors, their distinctiveness, and the nature and</i></p>

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		<p><i>size of the visitor markets they will attract.</i></p> <p><i>“Core attractors should meet at least two of the following criteria:</i></p> <ul style="list-style-type: none"> • <i>Attract a significant number of visitors annually</i> • <i>Have a physical or historical link to the destination</i> • <i>Be a destination landmark</i> • <i>The ‘Cottage’ Experience</i> <p>Given that the Bala Falls is what Bala is known for and that Bala is named after Bala, Wales (and "bala" is the Welsh word which means the outflow of a lake), it is clear that the Bala Falls meet more than two of the above criteria, and so according to the MTC's own definition, are well-defined to be distinct and special.</p> <p>Finally, as an example of the competition for tourists and what the draw of Bala is, the report states <i>“At the heart of the Township of Muskoka Lakes are three of Muskoka's largest and best-loved lakes: Muskoka, Rosseau and Joseph. The waters of Lake Muskoka head for Georgian Bay via the Moon River through Bala and the Bala falls are a popular place for photographers. At the locks in Port Carling, visitors gather to watch the boat traffic pass by on their way between Lake Muskoka to Lake Rosseau.”</i></p> <p>That is;</p> <ul style="list-style-type: none"> • There are lots of things to see in Muskoka, so if you lose your Core Attractor, you won't get the tourists. • And it isn't the view down the river, it is the falls themselves which are the draw. <p>In conclusion, the tourist draw of Bala depends on the Bala falls.</p>
Shoreline access	Director notes that only the shoreline adjacent to Purk's Place and at the tailrace of the proposed project would be restricted.	<p>This is not true. As shown in Figure 2 below, the shoreline between the Don's Bakery parking lot and the town docks (that is, the north side of the north channel) would also be too dangerous for public access.</p> <p>In total, and according to the proponent's own scale drawing, and reproduced in Figure 2 (dimensions added), <u>over 525' of currently-accessible Muskoka shoreline would become too dangerous to use.</u> In addition:</p> <ul style="list-style-type: none"> • The proponent has not shown how the 120' section of popular (for fishing) shoreline between the proposed project and the south channel would be accessed, as their 20'-high driveway retaining wall would prevent this. • And the water access they would allow to the north of this would literally be in the shadow of a 20'-high poured-concrete structure with noisy exhaust fans, and directly adjacent to the dangerously turbulent water exiting their

Issue	Director's Response	Unaddressed Concern
		<p>proposed generating station and the new safety boom with huge yellow or orange plastic floats. That is, there would no longer be any natural beauty of Muskoka here. People wanting this experience could save time and just stay in Toronto.</p> <p>This is a major, unacceptable, irreversible loss of crucial shoreline.</p> <p>The impact of this loss of shoreline has not been mitigated and has not been estimated. The proponent <u>did not survey tourists</u> about this, and the proponent did not survey business owners about this. There is no justification for the Director's statement "<i>I am satisfied that SREL has considered access to the shoreline areas around the North and South Dams and the potential impacts</i>". <u>Where is the science, where are the facts, where is the survey methodology.</u></p> <p>The proponent's economic impact study did not examine this.</p> <p>The Director and the proponent have no information on which to assume this loss could be tolerated by Bala's economy.</p>
Upstream safety boom	Of the upstream safety boom location, the Director notes that Transport Canada has " <i>reviewed the Project documentation and confirmed to SREL that the proposed intake boom location, upstream of the Canadian Pacific rail bridge, is reasonably placed</i> ".	<p>This is not following industry best practices. Documents from the Canadian Dam Association (the Spring 2009 issue of their <i>Bulletin</i>, as well as <i>Guidelines for Public Safety Around Dams</i>) and the Ministry of Natural Resources (draft of <i>Technical Guidelines and Requirements for Approval Under The Lakes & Rivers Improvement Act, Volume Four – Public Safety Around Dams</i>) discuss the design and orientation of safety booms.</p> <p>A major focus of safety boom design is <u>whether the location and orientation facilitates self-rescue</u> of boats being pushed into the safety boom by the current – as this is obviously preferable to depending on another party being notified, available, and able to assist.</p> <p>The proponent has proposed <u>a concave-shaped upstream safety boom, this dangerous design would hold one's boat in the middle</u> of the north channel.</p> <p>For undisclosed reasons, Transport Canada is not requiring the safer "inverted-V" design, therefore placing the public, as well as those tasked with rescue responsibilities to increased danger.</p> <p>While the safety boom for the south dam currently uses a concave design:</p> <ul style="list-style-type: none"> • The proposed safety boom would be more than <u>250' closer</u> to where the boating takes place. • The 45'-deep water intake for the proposed generating station would be far more dangerous than a dam. <p>This repeated compromising of safety is a problem which has not been addressed.</p>

Issue	Director's Response	Unaddressed Concern
Public safety, "Stay Clear, Stay Safe" campaign	Director notes "... <i>the ESR documents that the restricted area upstream will be approximately 100 m from the intake location and approximately 10 m surrounding the Project tailrace. The 2 km radius of restricted area mentioned by some of the requesters will not apply to this Project. TC confirms that it has no outstanding issues with respect to navigational concerns.</i> "	<p>Firstly, this is incorrect. According to the proponent's own drawings (such as Figure 6.5 of the environmental screening report), the dangerous 45'-deep water intake would be <u>less than 60 m downstream</u> from the upstream safety boom.</p> <p>Secondly, this does not address the concerns:</p> <ul style="list-style-type: none"> • What justification is there that this 60 m distance would be a safe distance, especially given the intake is below the surface, but the model used only shows surface water velocity. Also, the proponent has refused to respond to our requests for information on the equipment, skills, resources, or training needed to respond to an emergency, such as a person hanging on to the safety boom. • <u>Transport Canada's mandate and expertise is marine navigation</u>, our concern is public safety, especially for in-water recreational activities, including swimming. This has not been addressed. • The OPG/OPP campaign is concerned with remotely-operated facilities as the flow can change without notice. While we understand that the tragic fatalities that occurred at OPG's Barrett Chute facility were due to rapidly increasing discharge water levels, the proposed generating station would have turbulence at the tailrace, and an <u>intake that would be even more deadly</u>. <u>What justification is there that this safety campaign does not apply in this situation.</u> <p>Finally, Section 5.3.2 of the MNR draft of <i>Technical Guidelines and Requirements for Approval Under The Lakes & Rivers Improvement Act, Volume Four – Public Safety Around Dams</i>) notes "<u>Sirens and warning lights are to be considered for use in conjunction with remotely or automatically operated sluice gates which may introduce a public safety hazard due to rapid changes in water levels or flows.</u>" Given both the proximity of the in-water recreation, as well as residences, this would be a difficult and important decision, perhaps including public consultation. This must be addressed as part of the environmental assessment due to the great impact on all nearby.</p>
Dam safety assessment	Under Emergency Response Plan Director notes " <i>MOE staff have reviewed a draft public safety guideline completed by MNR, as current dam owners/operators ...</i> ".	<p>This may be so, but our unaddressed concern is that the proponent would be <u>blasting and excavating within 65' of the north dam</u>, which is over 50 years old and could be damaged by such activities – with disastrous consequences.</p> <p>There is no information provided that the proponent has completed, or would be required to complete, a dam safety assessment including a risk assessment.</p>

Issue	Director's Response	Unaddressed Concern
In-water recreation	<p>Director notes “<i>With regards to the existing use of the public municipal dock, TC also concluded that water velocities upstream of the boom during Project operation will allow boating to continue as it currently does. The annual regatta, which accommodates several boats at the municipal dock over the Civic Holiday weekend, will be able to proceed without any disruption. TC stated it is satisfied that the Project will not negatively impact the surrounding environment from a navigational perspective.</i>”</p>	<p>This approval is incomplete. As noted in our response to the environmental screening report, the Bala Regatta, which has been at this location for over 100 years, <u>includes swimming activities at the municipal dock</u>, and also fun boating activities where it is expected that canoes will tip.</p> <p>As the Director notes, Transport Canada’s approval is <u>only “from a navigational perspective”</u>, our unaddressed concern are the in-water recreational activities which are important to the area’s economy. The proposed project requires input from an organization such as the <u>Royal Life Saving Society Canada that has the expertise, mandate, and certified staff</u> to assess the negative impacts the proposed generating station may have on in-water recreational activities.</p> <p>Furthermore, we are concerned that the requirement and expectation for <u>cycling operation</u> (as outlined in the proponent’s December 16, 2010 agreement with OPG) <u>will create an additional risk factor as the public will not know whether the plant is operating</u>, or at what level (currently, the public can judge the water flows by looking at the falls).</p>
Public safety: fast water	<p>Director notes “<i>SREL has indicated that the areas around the North Dam will be unaffected by the operation of the Project and will continue to be signed as a restricted area, however it will not be further fenced off or physically inaccessible. This area will continue to be unsafe to permit swimming or other recreation uses due to its proximity to the Dam and not as a result of the Project operation.</i>”</p>	<p>Proponent’s statement is not true. In the summer of 2010, there was a tragedy in which two inexperienced swimmers drowned as a result of the currents from the bulk of the water which enters the Moon River from Lake Muskoka.</p> <p>It is a fact that the proposed generating station would result in this fast water being brought more than 200' closer to the base of the north falls – the primary location from which people enter the water.</p> <p>Upstream of the proposed generating station, most in-water recreation activities are at the town docks (even swimming, for the Bala Regatta), and it is a fact that the <u>fast water would be brought 300' closer</u> to the town docks.</p> <p>While there is a small and unnoticeable “no swimming” icon on the busy north dam warning sign facing westwards, the fact is, responsible in-water recreation is important to the area and has been for a very long time:</p> <ul style="list-style-type: none"> • There have been swimming activities in the area for over 100 years, the Bala Regatta being one example. • Scuba diving is a well-known tourist attractor, the land between the two falls is even called Diver’s Point as a result. <p>The proposed generation station would significantly increase the danger to public recreational areas, what justification and evaluation is there for this.</p> <p>Note that while Transport Canada has approved some aspects, such as the safety boom locations, <u>Transport Canada’s mandate is marine navigation, not</u></p>

Issue	Director's Response	Unaddressed Concern
		<p><u>in-water recreational safety</u>. Therefore, the Transport Canada approvals do not respond to the question of public safety.</p>
Wildlife habitat	<p>Director notes “SREL completed an assessment of potential impacts to fish and fish habitat as a result of the Project's construction and subsequent operation ... MOE staff have reviewed the ESR and subsequent SREL letter of intent to DFO, and in consideration of DFO's satisfaction that the Project will not significantly impact fish and fish habitat as a result of construction or operation, I am satisfied that SREL has assessed potential negative impacts to the surrounding natural environment”.</p>	<p>The proponent's assessment is invalid due to their December 16, 2010 agreement with OPG, which includes the following information:</p> <ul style="list-style-type: none"> • The proponent would be obligated to cycle the operation of the proposed generating station as required by OPG, when the available flow is less than 26 m³/s. • The proponent expects to cycle the operation at greater flows, despite the fact they have always stated the operation would be run-of-river. <p>We accept and agree with an e-mail sent March 30, 2011 by Andy Heerschap, MNR District Manager, Parry Sound District, which noted that due to the large size of Lake Muskoka, the upstream water levels would not change enough to “cause flooding or other negative impacts such as damage to private property or built shoreline structures”.</p> <p>However, the following remain unaddressed:</p> <ul style="list-style-type: none"> • There has not been any reporting or calculations presented of the range, duration, or frequency of these water level fluctuations. The daily water level fluctuations, small as they may be, would be unnatural, and <u>would affect shoreline habitats</u> (for example, Section 6.1.1 of the MRWMP notes the susceptibility of Loon nests to water level fluctuations during the egg incubation period and other times). And in the winter, even small water level fluctuations could create cracks or ridges dangerous to snowmobilers, and could lift dock supports. Absent any analysis, the impact of this new cycling operation is unknown. • We note that 26 m³/s is fully 1/3 of the capacity of the proposed generating station, so such changes in flow through the proposed generating station <u>would be substantial, for example, affecting fish habitat</u>. • In defence of this significant change, which was not made known to the public for months after the agreement was finalized, the MNR claims the operation would be “essentially run-of-river”. This is hardly a fair characterization given that the flow would be less than 26 m³/s for <u>more than eight consecutive weeks in an average summer – the entire core of the peak tourist season</u> would have the operation of the proposed generating station using a cycling operation. <p>This cycling operation was <u>not described in the proponent's environmental screening report, and it was not described in the November 30, 2010 letter of intent</u> submitted by the proponent to Fisheries and Oceans Canada. For</p>

Issue	Director's Response	Unaddressed Concern
		<p>example, the proponent's letter of intent notes their proposed shoals would be "subject to relatively constant hydraulic conditions" – which we now know would <u>no longer be the case</u>.</p> <p>Cycling the flow every few hours, from completely off, to some larger flow would have many negative effects, none of which have been addressed by the proponent. For example:</p> <ul style="list-style-type: none"> • What would the effect be on the benthic habitat and benthic invertebrate production. It may not be able to accommodate the changing flow, so a larger compensation area, or one located differently may be required. • How would this affect fish mortality through entrainment, as the flow at the intake would change every few hours. For example, fish could begin habiting areas too close to the intake and due to slowly increasing flow, not notice the change and be entrained. This would be a completely different situation than a constant high flow, where the fish would be able to detect the change in water speed from where they came from Thus every time the flow is cycled a disproportionate number of fish could be lost. <p>These are significant environmental issues, which need to be addressed in a scientific manner using information from relevant studies <u>which included similar variable flow environments</u>.</p> <p>The proponent was negotiating this agreement with OPG for many, many months, and has had adequate time to provide the public with the required updates to the environmental screening report – yet the proponent chose not to do this.</p> <p>The result is the proponent's environmental screening report is incomplete, and so the environmental assessment process needs to be restarted so that:</p> <ul style="list-style-type: none"> • The proponent provides information which fully reflects this cycling operation. • A public comment period is again required, after which the proponent will need to respond to questions. • The Ministry of the Environment can then determine whether the negative environmental impacts have been successfully mitigated.
Aesthetics	Director notes "... <i>the Project is intended to be constructed primarily underground...</i> ".	This is a pointless statement which simply repeats the evasive responses from the proponent. The significant point is the proposed building would <u>rise 20' above the Moon River</u> and the side of this 100'-long building (or the unnatural blasted rocks piled up the side) would be in full view of the most common place tourists view the falls.

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		<p>As an analogy, houses also have significant portions built underground, but the part the community is concerned about – and the part that zoning by-laws therefore apply to – is the part which is above ground</p> <p>The aesthetics are a legitimate environmental issue, as environment is defined by the Electricity Guide to include “<i>any building, structure, machine of other device or thing made by man</i>”.</p>
	<p>Director notes “<i>Final details of the visual elements of the Project ... will be determined during the detailed design phase.</i>”</p>	<p>We are not asking for picky details of the “visual elements”. There are huge inconsistencies and unknowns.</p> <p>This would be a poured-concrete structure over 100' long, rising 20' above the Moon River, directly in front of the most common place as which the north falls are viewed. The details don't need to be final or complete, but they do need to be a “proof-of-concept” to <u>show at least one way that their claims could be met</u>, for example:</p> <ul style="list-style-type: none"> • The proponent has described the view from the proposed look-out as a “<i>grand view down river</i>”, yet the proponent's own drawings show a 5'-high gate hoist mechanism running the full width of the proposed look-out. This would <u>completely obstruct the view</u>, the drawings provided by the proponent show there would be “<u>no view down river</u>”. • The proposed “<i>easily accessed water's edge lookout</i>” may not be possible, as it would need to be directly over the 44 kV, 5 MVA step-up transformer and switchgear. Building codes, insurance requirements, and the principals of safety and prudent avoidance may not permit the public to be <u>directly above this transformer vault</u> – especially considering a 13' x 13' removable hatch needs to be directly above the transformer (to facilitate its installation). Confirmation that the proposed look-out could even be occupied by the public is required. • While the proponent claims “A gentle path steps visitors down to the old shore”, their drawings show three large fans (each requiring openings 3½' x 2½') which would need to exhaust 86,000 watts of heat, <u>blowing directly at people accessing the water</u> and attempting to enjoy the natural beauty of Muskoka. More ridiculous is that the corresponding landscaping drawings from the proponent show these required fan openings as completely covered by backfill. The proponent needs to show a workable method of providing this required ventilation. • The driveway retaining wall would be 20' above the Moon River. Detail is required of the fencing required for this dangerous location. People don't come to Muskoka to look through metal bars.

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		<ul style="list-style-type: none"> • The proponent claims the shoreline south of the proposed generating station (which is frequently used by those fishing) would not be restricted. Information is required on how this would be accessed by the public, the room left for fishing (given it would be at the base of the 20'-high driveway retaining wall), and the impact on the shoreline vegetative buffer. • The three generating stations (all of which would be smaller than the proposed generating station) at and above Bracebridge <u>all have barbed-wire fencing</u>. The nearby Ragged Rapids generating station has barbed-wire fencing. What assurance can be provided that barbed-wire fencing would not be required at the proposed project's intake or tailrace. • We understand that landscaping decisions would be made later, but before the proposed project is approved, renderings need to be provided showing what would be under the landscaping, showing the basic required components that would affect the public's interaction with the proposed structure, such as the entrance door, where maintenance vehicles would park, the fence around both the upper and lower look-out, emergency exits, the large ventilation fan openings and to where they would exhaust, the driveway retaining wall and fence, the tailrace gate hoist mechanism and intake gate covers, the many large 4' x 8' red warning signs, and so on. <p>We're not expecting a detailed design, just some <u>credible information that the proponent's statements of the project's aesthetics are possible</u>.</p>
Subsidies	Director notes " <i>SREL notes in the ESR that it is not applying for any subsidies for this Project</i> ".	<p>This is not true. The proponent <u>did apply</u> for the Ontario Power Authority's Feed-in Tariff program and was awarded a contract on April 8, 2010. There are <u>huge subsidies</u> provided by this program, as the proponent would be paid the following rates:</p> <ul style="list-style-type: none"> • 11.8 ¢/kW·h at non-peak times. • 17.7 ¢/kW·h at daily peak periods – over 4 times more than existing large and small hydro-electric generating stations receive. <p>Note that these rates are:</p> <ul style="list-style-type: none"> • For a term of 40 years, and a portion is increased to allow for inflation. • More than consumers pay for electricity, and this without even including the other costs of electricity such as transmission. <p>So not only did the proponent apply for and be approved to receive a subsidy for this proposed project, the subsidy would have a 40 year term. This is a commitment and obligation for people that haven't even been born yet. We owe it to future generations to ensure this proposed project is properly planned.</p>

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Traffic	<p>Director notes “<i>The ESR documents the construction schedule and notes that the placement of the temporary bridge over Highway 169 will begin after the Cranberry Festival. Any traffic delays will only occur during this two week period. The bridge will be removed prior to the 2012 Victoria Day long weekend...</i>”.</p>	<p>The proponent's statements are simply not believable.</p> <p>There would be much more traffic disruption than this. The Director's statement only describes the restriction of Muskoka Road 169 of a single lane for a two-week period to install the foundations for the temporary “Bailey” bridge. Note that this temporary bridge would be installed for many months, during which time:</p> <ul style="list-style-type: none"> • The deck of the temporary bridge would be 4½' above the road bed, with long 30' and 60' ramps leading up and down from and to the road bed. It would be most unfamiliar to drive up and down these ramps. Incredibly, the proponent claims that a reduction in speed limit would not be required. Given that there would be active construction, materials storage, and construction equipment on both sides of the temporary bridge one would certainly expect there to be a speed limit reduction, as there is for <u>every other road through a construction project</u>. The proponents repeated claims that no speed limit reduction would be required are simply unbelievable. There would certainly be delays for more than a two-week period as a speed reduction would be required for many months. • The temporary bridge would be metal, possibly with wood decking. Given that the deck would likely rock and reverberate with every car passing, this bridge has the potential to be extremely noisy, day and night, for months and months. This is a concern both for the hoped-for tourists, as well as to people in the nearby residences (the sound would carry along the river, with no trees or obstacles to attenuate it). This <u>day-and-night noise issue</u> is not addressed by the proponent. • This temporary bridge would be installed all winter, so snow clearing, snowmobile traffic, pedestrian traffic, and potentially dangerously slippery conditions would be an issue, again, unaddressed by the proponent. • While the temporary bridge is installed, the proponent would need to excavate a 40'-deep, 50'-wide trench below it. This would be difficult work: blasting directly below a heavily-used bridge, blasting near the supports for the highway bridge, blasting adjacent to the north channel which could flood the excavation, blasting near the north dam, needing to monitor the Stone Church for damage, working in the winter, and a construction site on both sides of the highway. There is certainly the potential for unexpected problems and delay, and only a small delay would result in the bridge being still in place for the very busy Victoria Day long weekend in May. The proponent has not provided any information on <u>contingency plans</u> for this likelihood, both for regular traffic delays, as well as for emergency vehicles.

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		<ul style="list-style-type: none"> • <u>Another two weeks of single-lane traffic</u> would be required after the temporary bridge would be removed (for paving and other activities), and this would be during the very busy beginning of the summer season. The proponent has not provided any information on the traffic delays or method of handling emergency vehicles during this time. <p>In addition, there will certainly be blasting during the summer season (requiring traffic to be stopped), as well as the requirement to haul more than 1,000 truckloads of rock (and the queuing and merging trucks will also disrupt traffic). The proponent has not estimated the resulting traffic delays.</p> <p>There are many traffic and <u>emergency vehicle delay</u> risks and net effects, and the proponent has not described these (such as the durations of delays and traffic queue lengths to be expected). The proponent needs to provide complete information on this very public disruption, information provided so far has been <u>incomplete and misleading</u> despite the very specific questions asked.</p>
Cultural landscape	<p>Director notes "<i>Further, MTC states that there is no formal provincial tourism designation status placed on the North or South Bala Falls.</i>"</p> <p>Director notes "<i>None of the sites in the Project study area, including the Stone Church and Purk's Place, have been determined by MTC to be of any provincial archaeological or cultural heritage significance.</i>"</p>	<p>Well of course the Bala Falls have no provincial tourism designation – because <u>there is no such thing</u>.</p> <p>The Ministry of Tourism and Culture does not provide any "formal provincial tourism designation" for anywhere in Ontario. Being a government agency, it is not their position to favour one area of the province over another.</p> <p>Given that the MTC does not have such a designation, we do not understand the Director's statement.</p> <p>We note however that the MTC does have a program of Premiere-Ranked Tourist Destination frameworks, and Bala is included in that for the District of Muskoka. As discussed in this Table's Section above for Scenic Flow, the Bala Falls easily <u>qualify as a "Core Attractor"</u>.</p> <p>This is not true. Firstly, Appendix C8 of the proponent's environmental screening report is the Heritage Impact Assessment <u>as commissioned by the proponent</u>, and Section 4.1 therein notes "<i>The 1926 Presbyterian Church [now called the Stone Church] has been designated under Part IV of the Ontario Heritage Act. Purk's Place has been listed by the Muskoka Heritage Committee as a site of historic significance. Plaques have been erected by Ontario Hydro and the Ministry of Culture to commemorate construction the Bala #1 generating station, the founding of Bala in 1868, and the geological significance of the Precambrian Shield.</i>"</p> <p>Additionally, Section 4.4 of this same Heritage Impact Assessment notes "<i>The</i></p>

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		<p><i>Bala Falls area extending from the park on the south shore of the Muskoka River to the park on the north side is a distinct cultural heritage landscape of water management, power generation, tourism, and transportation</i>” (this refers to the area from Cenotaph Park to Margaret Burgess Park). (Some of this is also noted in Section 5.3.12.1 of the environmental screening report.)</p> <p>The above contradiction between the proponent’s Heritage Impact Assessment and the Director’s statement may be explained by the source of information, likely a letter dated March 6, 2009 from Ms. Paige Campbell, Acting Archaeology Review Officer, Ministry of Culture, in which the proponent’s Stage 2 Archaeological Assessment (as found in the second half of Appendix C7 of the environmental screening report) is accepted. This letter only confirms that the archaeological assessment was submitted, and concludes “<i>This Stage 2 field assessment revealed no archaeological materials and it is recommended that there should be a complete clearance of the archaeological condition on the subject property.</i>” That is, the Ministry of Culture provided a clearance of <u>archaeological issues only</u>, it would appear that the Heritage Impact Assessment (which is in Appendix C8) was not reviewed by the Ministry of Culture and a cultural heritage significance clearance was not provided. In any case, the Director’s statement appears to have no justification and an incorrect conclusion was reached. In fact the <u>proponent’s own information has confirmed that the Bala Falls have a cultural heritage significance.</u></p> <p>Second, the Township of Muskoka Lakes has long expressed concern over heritage impact of the proposed generating station, and on October 21, 2008 passed Resolution Number: C-14-21/10/08, which included “... <i>that the environmental screening for the hydro project at the North Bala Falls include ... the heritage value of the North Bala Falls and any related heritage impact the hydro generation station may have on the falls ...</i>”.</p> <p>Third, a December 20, 2010 letter from Mr. Lloyd Alter, B.Arch OAA, president of the Architectural Conservancy of Ontario to Mr. Adam Sanzo of the MOE notes the following:</p> <ul style="list-style-type: none"> • The Guidelines for Environmental Assessment Requirements for Electricity Projects defines "environment" to include air, land and water as well as natural, cultural, social and economic components. • The Glossary defines "negative environmental effects" as including "<i>cultural or heritage resources. Negative environmental effects may also include the displacement, impairment, conflict or interference with existing land uses, approved land use plans, businesses or economic enterprises, recreational</i>

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		<p><i>uses or activities, cultural pursuits, social conditions or economic structure.</i>"</p> <ul style="list-style-type: none"> • The Provincial Guidelines on the Man-Made Heritage Component of Environmental Assessments defines Cultural Heritage Landscapes "<i>in the countryside are viewed in or adjacent to natural undisturbed landscapes, or waterscapes, and include such land uses as agriculture, mining, forestry, recreation, and transportation.</i>" • A cultural feature is defined as "<i>...an individual part of a cultural landscape that may be focused upon as part of a broader scene, or viewed independently. The term refers to any man-made or modified object in or on the land or underwater, such as buildings of various types, street furniture, engineering works, plantings and landscaping, archaeological sites, or a collection of such objects seen as a group because of close physical or social relationships.</i>" • That "<i>There is no question that the Bala Falls meet the definition of a Cultural Heritage Landscape, and under the terms of the Guidelines on the Man-Made Heritage Component of Environmental Assessments, there appears to be no question that a full environmental assessment is required for the site before proceeding.</i>" <p>Finally, we note that the Ontario Heritage Trust ("the province's lead heritage agency"), which is an agency of the Ministry of Tourism and Culture, for their <i>Doors Open Ontario</i> program, for Bala Falls and Area notes "<i>The Bala Falls and surroundings have a unique cultural heritage and are a favourite location for viewing sunsets, picnicking and taking wedding photos.</i>" We should note that the point of taking photos at the falls is to see the falls, not dry rocks.</p> <p>In summary, the Bala Falls <u>certainly have met the requirements</u> for, and do have a cultural heritage significance.</p>
Public safety and scuba diving	Director notes " <i>SREL has indicated that other nearby areas, such as Diver's Point, will continue to be unaffected by the Project operation and will continue to be a safe location for scuba diving.</i> "	<p>This makes no sense. Part of Diver's Point is actually <u>in</u> the restricted area within the upstream safety boom, and the rest of Diver's Point is just a few feet farther upstream of that safety boom. The proponent has directly told us that scuba diving <u>would not be advised</u> at Diver's Point as due to the current, and being under water, scuba divers could lose track of whether they are still outside of the upstream safety boom and could easily be pulled by the current to the extreme danger of the 45' deep intake trash rack.</p> <p>Word would spread this is no longer a safe location for scuba diving, further reducing the tourism to the area, and negatively impacting the local economy.</p>

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Elevation requests received	In the March 25, 2011 letter to the proponent's project manager, the Director notes " <i>Between October 13, 2010 and November 27, 2010, I received 105 requests ...</i> ".	This is not correct. These requests were actually received between October 13, 2009 and November 27, 2009 (that is, a year earlier).
Economic impact	Director notes " <i>The Ministry of Tourism and Culture (MTC) confirmed to the MOE that economic data for the Bala community is not available, and thus the conclusions cannot be quantified.</i> "	<p>Not bothering to request this information in their own survey does not excuse the proponent from their obligation to gather it. Ultimately, economic information, even from government reports and statistics, comes from surveying people and businesses. The proponent could simply have augmented their own survey to quantify the impact, but they made no effort to do so.</p> <p>The proponent did not ask business owners to quantify the impacts expected, so of course, if you don't ask, you won't know.</p> <p>The proponent made <u>no effort to survey tourists</u>, so again, if you don't ask you won't know.</p> <p>We note the August 3, 2010 proposal from The Centre for Spatial Economics to the Township of Muskoka Lakes for this economic impact study stated:</p> <ul style="list-style-type: none"> • They were to assess "the positive and negative impacts of the operating phase of the project". • The economic impacts of the operating phase will include ... indirect impacts related to changes in the landscape, the flow of water over the Falls ..." <p>Yet, the study's authors <u>did not solicit this information from Bala residents or businesses, and did not speak to tourists</u>. Given they were prepared to gather this required information, why was this not actually done.</p> <p>If the proponent doesn't bother to gather the known to be required information (or provides direction that it not be gathered), the proponent should <u>not be released from their obligation</u> to report on the economic impact.</p> <p>Therefore, the net effect of the economic impact remains unknown, and even the proponent's environmental screening report (Section 2.2.3.1) acknowledges that the District of Muskoka's Official Plan states "<i>The OP also states that "It is envisioned that the tourism and recreation industry will continue to form the basis of the economy in Muskoka"</i>". The Director's May 14, 2010 <u>requirement for an economic impact study should be considered to still be unfulfilled</u>, and this must be completed as part of the environmental assessment.</p>

Issue	Director's Response	Unaddressed Concern
	<p>Director notes “<i>The EIS also predicts an anticipated larger attraction for the local tourism industry when the Project is in operation because of the proposed landscaped public viewing area.</i>”</p>	<p>This is completely unsubstantiated conjecture, and as this is crucial to Bala's economy, must be determined with scientific rigor – for example, <u>by interviewing tourists – not by the proponent's wishful thinking.</u></p> <p>As described in Section 2.3.1 of our Technical Report, we are mostly concerned about the long-term economic impact – that is, during the operational phase of the proposed project.</p> <p>We note that the proponent's survey of area businesses was fundamentally flawed, for example:</p> <ul style="list-style-type: none"> • The descriptions of the impacts of the projects were one-sided and biased. For example, the project was described as having a “<i>sunset view lookout over the Moon River</i>” and “<i>landscaped walking paths</i>”, but there was <u>no mention that the water over the falls would be reduced by 94%</u>, or that the “lookout” would be a poured-concrete building rising 20' above the shore, or that there would be a significant loss of publically-accessible shoreline and in-water recreational area. • The questions were more a <u>solicitation for business</u> than solicitation for information. For example, question 34: “... would you be willing or interested in entering into a supply agreement with SREL or its contractor?”. Such blatant patronizing “questions” subvert the scientific process of the survey. <p>Talking to tourists would show they come to Bala to see the falls and climb on the rocks, not to stand on a concrete building and look at a river.</p>
	<p>Director notes “<i>MOE staff have reviewed the ESR and the EIS and I am satisfied that SREL has made a reasonable attempt to document the Project's potential impacts on the local economic environment...</i>”.</p>	<p>The MOE staff are not qualified to make this determination. In contrast, on behalf of the Township of Muskoka Lakes, the economic impact study was <u>peer-reviewed</u> by Watson & Associates Economists Ltd. (Peer Review of the Economic Impact of the North Bala Falls Small Hydro Project), and their findings include the following:</p> <ul style="list-style-type: none"> • The survey process should have included telephone interviews to follow-up with non-responders and ensure no misunderstandings. • “... <i>there are a number of statements about the potential positive effects of the project; however, without an estimate of the negative impacts, it is unclear as to whether there will be a net positive or negative effect</i>” – this is the entire purpose of the economic impact study. • “... <i>given the importance of tourism to the community of Bala and the Township as a whole, more emphasis should have been placed on understanding the nature and role of tourism in the area and how these may be affected by the project.</i>” • The economic impact model “<i>was not designed to forecast the impact of a</i>

Issue	Director's Response	Unaddressed Concern
		<p><i>hydro electric generating station</i>". One example given shows that the benefits would have been <u>over-estimated by 65%</u>.</p> <ul style="list-style-type: none"> • Rationales and <u>details are not provided</u> (for example, was the economic model properly applied to the type of work anticipated), so the conclusions reached are subject to question. • A net effects assessment is required to show the impact on employment or on municipal tax revenues. • It is noted that statements are provided which have no justification, such as "<i>Beyond the construction phase, the project will continue to generate direct economic activity from operating outlays for the project and indirect impacts from the proposed changes to the landscape and flows over the Falls</i>" and "<i>visitors will come to the falls during construction because they will be attracted by the construction activity itself</i>". Of these, the peer review notes "<i>Evidence should be presented to support this assertion, such as documented experience with similar projects elsewhere.</i>" • "<i>The report does not address the potential for reduced tourism due to the decrease in water flow over the falls ... an evaluation should be undertaken to assess whether or not the changed character of the falls will have a net positive or negative effect on tourism in Bala.</i>" This is a fundamental and inexcusable omission and on this point alone the economic impact study provided should be rejected as incomplete. • Finally, the peer review concludes "<i>... the economic impact assessment prepared by C4SE, as set out in their November, 2010 report, does not adequately identify and assess the potential economic effects of the proposed project.</i>" • In summary, the proponent's economic impact study was <u>incomplete, poorly planned, inconclusive, and therefore does not provide the information requested by the Director</u>. We still don't know the economic impact of the proposed project, and this through a lack of effort on behalf of the study authors. The director's requirement for an economic impact study is yet to be fulfilled.
Completion bond	Director did not respond	<p>The proponent has <u>no assets, no employees, and no operations</u>. The company has <u>never built a generating station</u> before. If they encountered a technical problem, a cost overrun, or accidentally damaged the highway bridge supports (they would be blasting within 3' of the south abutment), they could just walk away from the project. And leave a 60'-deep trench across the highway, or 300' of rocks dumped into the Moon River (that is, the required coffer dam). A few years ago, a similar situation happened in nearby Port</p>

Issue	Director's Response	Unaddressed Concern
		<p>Carling with another private developer, and this is still not resolved.</p> <p>Even worse, as the proposed project would require blasting within 65' of the north dam, which is more than 50 years old, <u>dam failure</u> is a possibility. Note that Lake Muskoka is 20' higher than the Moon River and has an area of 120 km². The resulting property damage and <u>even fatalities</u> would exceed any resources of this shell of a company. The result would be that the only recourse would be for the public to pay, and this would certainly not be for the <i>"betterment of the people of the whole or any part of Ontario..."</i>.</p> <p>Perhaps the reason why this proposed project has been on-going for over six years is not only the public opposition, but also the <u>poor planning, lack of experience, and lack of attention to important detail by the proponent</u>. And this <u>shouldn't become the public's problem</u>.</p> <p>The only protection for the public would be for the proponent to post a completion bond adequate to restore the site from any intermediate construction stage or damage that could be caused by them.</p>
Margaret Burgess Park and Diver's Point	Director did not respond	<p>As part of the MNR's site release program, the proponent would also have control over Margaret Burgess Park (the green space north of the north falls) and Diver's Point (to the west of the south dam).</p> <p>We understand that because this land is owned by the province, municipal zoning by-laws may not apply. Also, some of the principals of this for-profit developer have significant real estate development background.</p> <p>The proponent should be required to provide a written undertaking that they would not, during the entire term of their agreement with MNR, apply or attempt to develop or change these properties in any way.</p> <p>Otherwise, the municipality and community could encounter significant expenses as part of litigation or an Ontario Municipal Board hearing.</p>

Table 1 – Specific Unaddressed Environmental Concerns

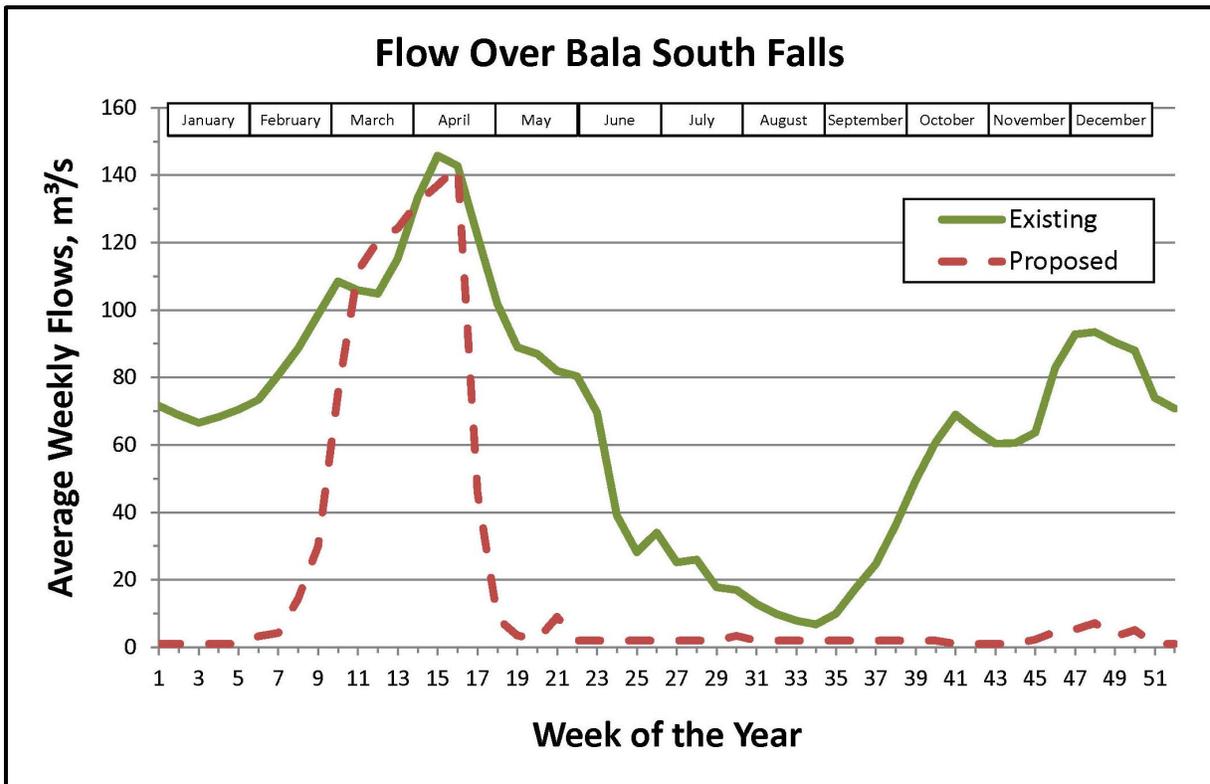
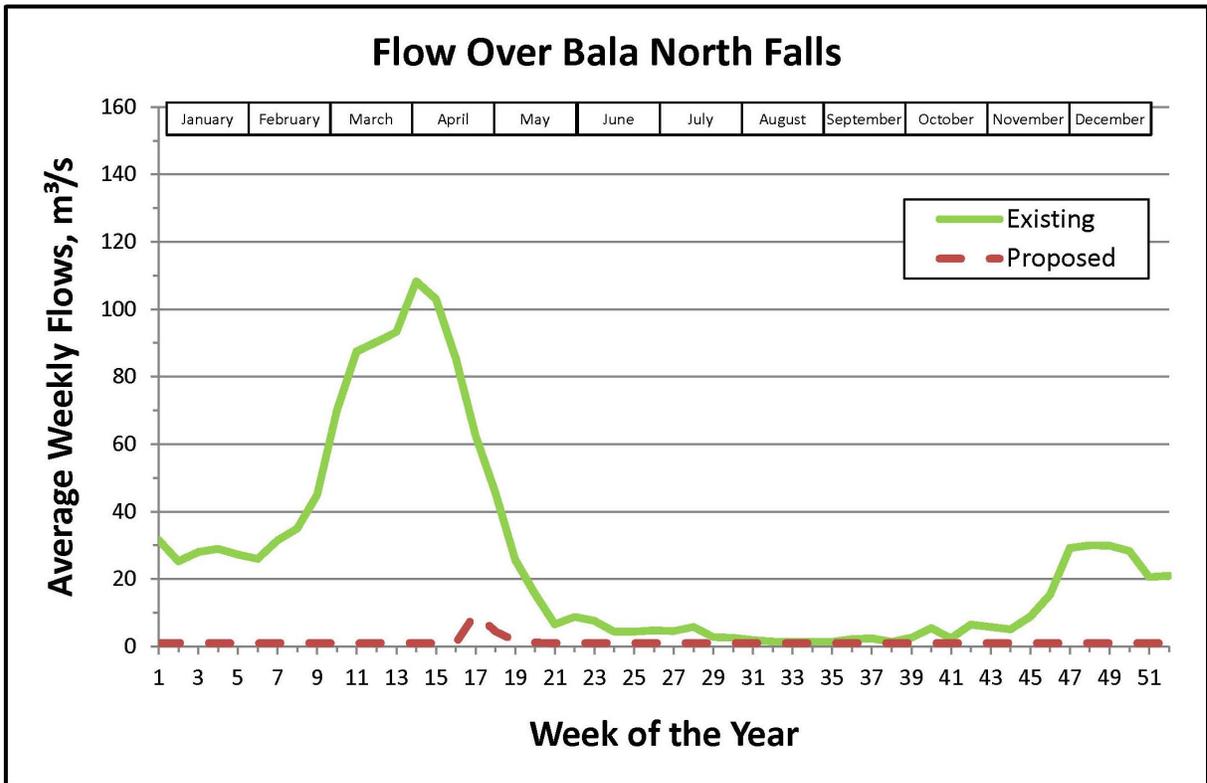


Figure 1 – Existing and Proposed Flow Over North and South Falls
 (values from the environmental screening report, Figure 2.4 and Figure 6.1)

