

January 8, 2015

Ms. Agatha Garcia-Wright
Director, Environmental Approvals Branch
Ministry of the Environment and Climate Change
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Toronto, ON M4V 1L5
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Dear Ms. Garcia-Wright:

Re: Proposed Hydro-electric Generating Station at the Bala Falls

Thank you for your response to our May 28, 2014 letter on this issue. We have recently become aware of other plans this proponent has which are not as described in their 2009 Environmental Screening/Review report or 2012 Addendum, as follows:

- 1) Page 2 of the proponent's 2012 Addendum states: "*Swift River has committed to working with a Public Advisory Committee (PAC) on the final appearance of the powerhouse and site.*" Further references to receiving recommendations from this "PAC" are made in their Addendum Sections 4.6.1 Heritage and Culture, 6.2.3 Adverse Effects on Cultural Heritage, and 9.1 Proposed Modifications to Project Location. In August 2014 the proponent announced they had formed a "Community Based Design Committee" with a similar mandate. However, there are several concerns:
 - a) The identity of the community members of this committee are secret, the times and locations of the meetings are secret, the discussions are secret, and the agenda is secret – there is nothing public about this committee.
 - b) The minutes of a meeting apparently held September 4, 2014 are posted on the proponent's web site at <http://balafalls.ca/design.html> and these state "*Next meeting was unanimously decided for Monday October 6, 2014*" but there is no indication whether this next meeting was held, and if so what was presented, discussed or decided.
 - c) The proponent claims that all "*committee members have requested their names not be released*". If an individual will be representing the public, then the person must agree to be identified, otherwise there is no representation, the public is not being involved, and it is not a public process.

The proponent has therefore not created a **public** advisory committee. Please respond with what steps the Ministry of the Environment will require for the proponent to fulfill their commitment.

- 2) We note:
 - a) Section 5.2.7.1 of the proponent's 2009 Environmental Screening/Review report concerns "In-stream Construction" and notes that: "*MNR's Parry Sound District timing restrictions for in-stream construction activities state that no in-water work shall be conducted from April 1 to July 15*" and commits: "*Therefore, in-water*

works (e.g., installation and removal of cofferdam and working platform, removal of rock plugs, intake approach channel excavation) are scheduled between July 16 and March 31."

- b) In addition, Section 5.2.1.1 of the proponent's 2012 Addendum confirmed they would comply with this commitment as it states: *"As per the ES/RR, MNR's timing restrictions regarding in-water work will be followed during installation and removal of the cofferdam and the cofferdam will be completely removed from the water."*

However, in March 2014 the proponent submitted an application package to Transport Canada providing the information needed for a required approval under the Navigation Protection Act. This application package included construction stage drawings and schedule information, and stated:

- a) *"Installation of the upstream cofferdam will commence on June 1, 2015"*.
- We note that the proponent does not have approval from the Ministry of the Environment to begin in-water construction work on this date.
- b) That their downstream cofferdam would be constructed beginning September 2014.
- However, this has not occurred. We therefore request to know when this work would be done.

Please respond with the proponent's schedule for in-water work so that we can be assured that their plans would meet their environmental commitments.

- 3) The proponent's 2009 ES/R report (Sections 5.2.5 and 5.2.8.2, and Figure 5.2) and 2012 Addendum (Section 5.2.1.1 and Figure 5.1) both stated that their construction plans would only **partially** block the flow of water through the Bala north channel. However, the proponent's application package to Transport Canada states that during the June to March period of their planned construction, their upstream cofferdam would **entirely** block all flow through the Bala north channel:

- a) The proponent's plans for which they have approval from the Ministry of the Environment would have ensured a continuous flow of water over the Bala north falls to prevent stagnation, as is required by the Muskoka River Water Management Plan (MRWMP, Tables 5.2 and C1).

The proponent is therefore planning construction which:

- Would have a greater negative impact to the fish habitat directly downstream of the Bala north falls, and there has not been an environmental assessment for this.
- Would not comply with the MRWMP.

Please respond with how it will be ensured that the proponent would meet their fish habitat environmental commitments and that their work would comply with the MRWMP.

- b) The proponent's construction plans for which they have approval from the Ministry of the Environment would be able to handle a range of high-flow events during June through March, as there would always be some flow through the Bala north channel.

However, the proponent's application package to Transport Canada states they would entirely block off the Bala north channel from June to March. The detailed analysis shown at <http://savethebalafalls.com/?p=4869> and <http://savethebalafalls.com/?p=5919> shows there would be more than a one in four chance that Bala's south channel would not have the capacity to handle the high-flow events during this time period.

Therefore, compared to their previous and approved plans, the proponent's current construction plans:

- Would have an increased chance of not being able to handle high-flow events during the non-spring freshet period of June through March.
- Do not have approval from the Ministry of the Environment.

Please respond with how it will be ensured that the proponent's construction plans will not reduce the capability for high-flow events to be handled without flooding.

- c) As noted above, the proponent's current construction plans are that their cofferdam would entirely block off the Bala north channel, and there would be more than a one in four chance that the Bala south channel could not handle the required flow during the non-spring freshet period of June through March. If such a high-flow event occurred, there would be one of two results:

- The proponent would be able to quickly remove their cofferdam, but this contingency plan would have negative environmental impacts. For example:
 - If this occurred between April 1 and July 15, it would be during the period when the MNRF does not allow such in-water work.
 - All of the sand and plastic of the rockfill cofferdam would be washed into the Moon River, rather than being removed as they committed in Section 5.2.1.1 of their 2012 Addendum.

The proponent does not have environmental approval for either of these negative impacts.

- The proponent would not be able to remove their cofferdam and therefore Lake Muskoka would flood, and this could damage private property and public infrastructure. Such flooding may be required as:
 - If the upstream cofferdam was removed during some of the proponent's construction stages there would be uncontrolled flooding of the Moon River due to the 60'-wide excavation – which would be required for the construction of the proposed powerhouse – as this flow would bypass the Bala north dam.
 - The equipment or staff to remove the cofferdam was not on-site or could not be operated safely at the time.
 - The Bala north dam and Muskoka Road 169 bridge would first need to be inspected (due to the blasting and excavation just inches away), and this could not be done on short notice or due to the time available or the weather.

As noted, there are many environmental concerns created by the proponent's new construction plans which would block all flow through the Bala north channel from June through March. The proponent has not addressed these concerns as

their environmental approvals are for construction plans that only partially block this flow.

In summary, significant aspects of the proponent's current plans are not as described in their 2009 Environmental Screening/Review report or 2012 Addendum. We therefore request that the proponent be directed to either:

- 1) Plan the work according to what has been approved and submit updated information to Transport Canada, or
- 2) Utilize the *Addendum Provisions* of the *Guide to Environmental Assessment Requirements for Electricity Projects*.

We look forward to your responses as requested above.

Sincerely,

A handwritten signature in cursive script that reads "Mitchell Shnier".

Mitchell Shnier, on behalf of SaveTheBalaFalls.com

Cc: Anne Collins, Ministry of Natural Resources and Forestry, Anne.Collins@ontario.ca