

March 10, 2015

The Honourable Glen R. Murray
Minister of the Environment and Climate Change
77 Wellesley Street West
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Dear Minister Murray:

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

The proponent for the subject proposed project plans work for which they do not have environmental approval, for example:

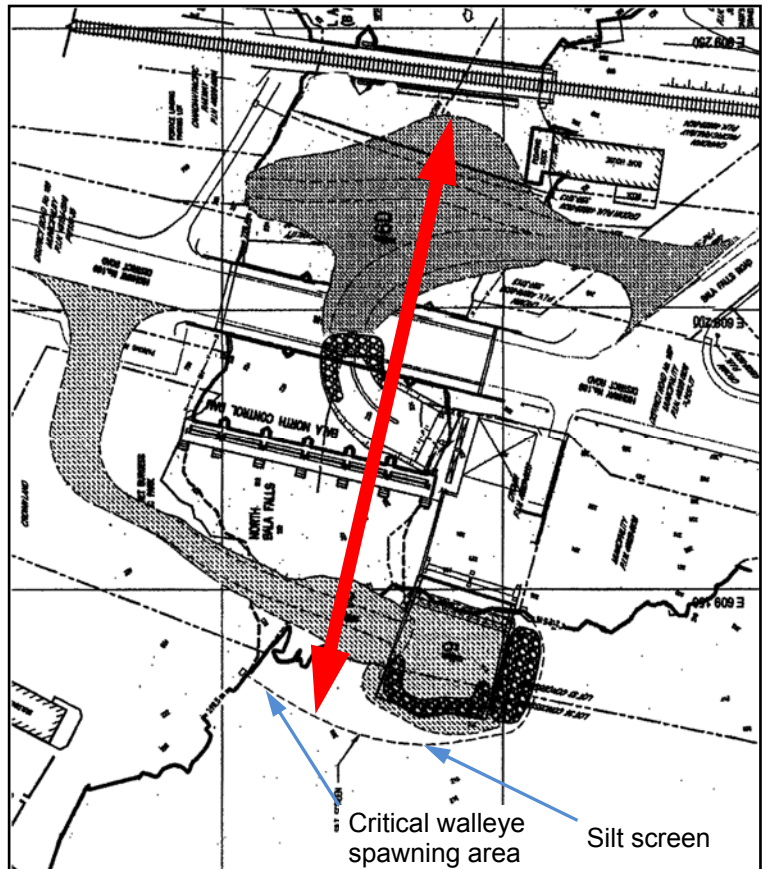
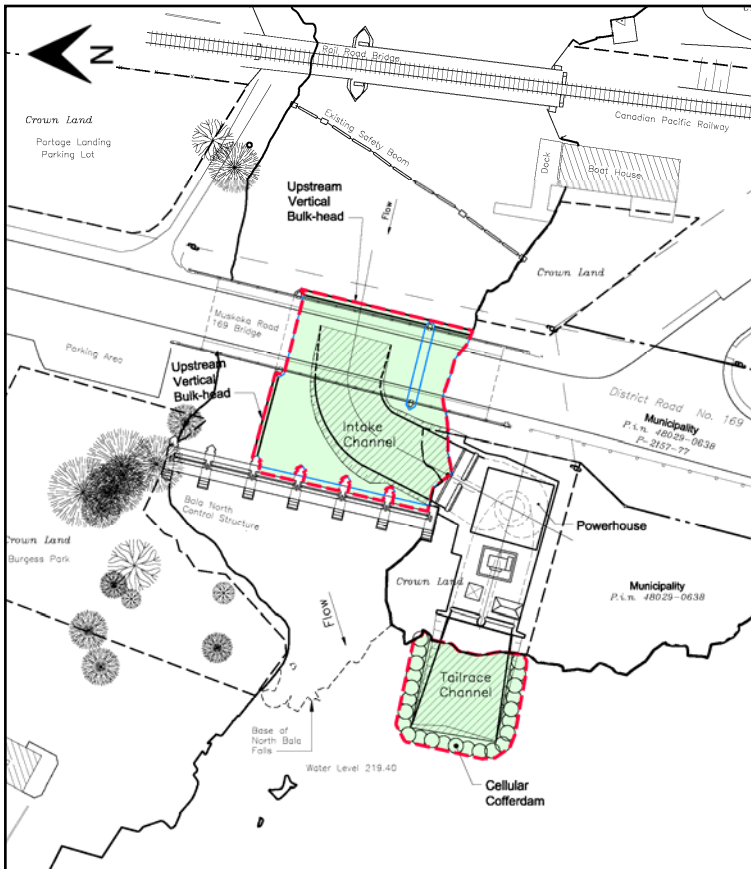
- 1) As I wrote to Ms. Agatha Garcia-Wright on May 28, 2014, the proponent's planned building would have a footprint 48% larger than approved for their 2012 Addendum in which they stated in Section 2.1 *"The footprint and elevation of the Alternative 1A plan presented in this Addendum illustrates the largest building size required for both configurations. Therefore, this size may indeed be reduced following detailed design prior to construction."*
 - a) It is unacceptable for a proponent to commit to a maximum building size, have this approved by the Ministry of the Environment, and then decide to increase the building footprint by 48%.
 - b) Dolly Goyette's July 16, 2014 reply to me simply stated this change is not significant. Given that the proponent originally committed to the MNR that the roof of this building would be below the level of Muskoka Road 169 and we now learn in would in fact be 28' – three storeys – above the road and therefore blocking the view down the river, it certainly is significant, especially given the sensitive location.
- 2) As I wrote to Ms. Agatha Garcia-Wright on January 8, 2015, but have not yet received any reply, the proponent's environmental approval:
 - a) Required they form a Public Advisory Committee, but this apparently is a secret group that meets secretly, with no public input.
 - b) Required no in-water work before July 15, yet the proponent plans in-water work to begin June 1, six weeks earlier than they have environmental approval.
 - c) Required a continuous flow of at least 1 m³/s through the Bala north dam, which is required for the fish habitat at the base of the Bala north falls. This flow is also required by the Muskoka River Water Management Plan. Yet the proponent plans on completely blocking this flow for ten months.
 - d) The proponent plans to quickly remove at least part of their proposed upstream cofferdam if necessary to handle a high flow event. This is extremely unlikely to be possible, and would more likely result in the entire cofferdam being washed

into the Moon River. There would also be period of time (before they have constructed their proposed upstream cofferdam) when this would not even be possible. It is exactly this type of barely-believable plan for which the public deserves answers. Consultation must be provided, so questions can be asked and answered.

3) The left diagram below shows the areas which the Ministry of the Environment approved for the proponent's 2012 Addendum for cofferdams, silt screens and other harmful alteration of fish habitat.

The right diagram below shows an overlay of two later diagrams from the proponent, to show the extent of the areas where fish habitat would be affected:

- a) Note the cofferdam would be extended 40 m east, to the CP Rail bridge, and would block the entire Bala north channel.
- b) Later in the proposed construction, the proponent would build an access road across the base of the Bala north falls. This was never described in their 2009 Environmental Screening/Review Report or in their 2012 Addendum.
- c) The proponent would install a silt screen to the west of and across the entire base of the Bala north falls. This would include the location of the critical Walleye spawning habitat.
- d) As shown by the red double-headed arrow, the affected area, from the CP Rail bridge to the silt screen is many times that described in their 2012 Addendum.



Portion of Figure 5.1 from proponent's 2012 Addendum, shaded areas show cofferdam areas approved by the Ministry of the Environment

Portion of overlaid drawings from proponent showing planned cofferdams and temporary access roads. Red arrow indicates extent of fish kill area

- 4) The proponent should be required to determine and state whether they would install a fence to prevent people from accessing the Moon River from Margaret Burgess Park. The proponent's statement that they have no such plan is completely evasive. This is a very important issue for this sensitive area, and whatever steps are required to determine this (such as discussions with a lawyer or insurance company) should be taken now, to know before construction if the proponent would meet their commitments.
- 5) In Section 4.6.1 of their 2012 Addendum, the proponent specifically stated they would not use the Township's Portage Landing for construction purposes, and the Minister's decision repeated this, stating: "*Any lands that are not currently owned by the Crown will not be used for construction purposes, as confirmed by Swift River Energy Limited in the Environmental Screening Report Addendum.*". However, the proponent has recently approached the Township of Muskoka Lakes and specifically asked to use the Township's Portage Landing for construction purposes.
As for all other commitments and plans described to the Ministry of the Environment and Climate Change, if the proponent wishes to make such a change, they should be required to use the Addendum process. Otherwise, it not only sets a terrible precedent that commitments made to the Ministry are meaningless and can be changed unilaterally, but could waste everyone's time and resources through litigation to determine what the value of an environmental approval really is.

Conclusion

All of these examples show the proponent is planning works for which they do not have environmental approval and which are significantly different than presented to the public.

The proponent arbitrarily making changes to their plans makes a mockery of the environmental assessment process. Such "minor modifications" are to use the Addendum Provisions, as specified in Section B.5.2 of the *Guide to Environmental Assessment Requirements for Electricity Projects*, January 2011, and we request the Ministry of the Environment to so instruct the proponent.

As the proponent is eager to begin work on June 1, and would therefore be incurring construction-related expenses and obligations the coming weeks, I request prompt and detailed answers to both this letter, and to my earlier e-mail sent January 8, 2015 to Agatha.GarciaWright@ontario.ca.

Sincerely,



Mitchell Shnier, on behalf of SaveTheBalaFalls.com

Cc: Honourable Bill Mauro, Minister of Natural Resources and Forestry, BMauro.mpp.co@liberal.ola.org