

June 15, 2015

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Dear Ms. Goyette:

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

While we expect to provide more detail the future, we feel compelled to respond now due to the unsubstantiated, ridiculous, and in many cases completely false statements in the proponent's letter of May 14, 2015, which the Ministry of the Environment and Climate Change forwarded to me along with a cover letter dated May 26, 2015.

In the proponent's May 14, 2015 letter they:

- Claim they have not provided building height information, but they have. Their current plans were approved for the roof of their building being **below** road level. However, in a formal meeting they have since stated "*the peak of the roof would be 6.2 m above the road surface*" – that is, the building would actually tower more than 20' above the road.
- State the recent changes to their plans would not be environmentally significant, yet this is just the informal and unsubstantiated opinion of their project manager who does not have any credentials, formal training, qualifications or competence for many of these statements.
- Make the absurd claim that because they mentioned silt barriers and fences in their 2009 Environmental Screening/Review report, they can **change their plans to require them in new locations without environmental assessment** of the impacts of the changes they made after their 2012 Addendum.
- Make up a new term for some **nonsensical thing that does not exist** – a "ramp-bridge", apparently hoping this word conflation will trick the MOECC into believing that dumping stones and rocks along the full width of the Bala north falls would be as innocuous as a bridge several feet above the falls.

The proponent's trickery, manipulation, deception, and false information is unacceptable.

The proponent must be at least required to provide an Addendum to properly address the environmentally-significant changes they now plan, as the proponent:

- Is renegeing on fundamentally-important commitments they made in their 2005 proposal to be awarded the opportunity to pursue this work.
- Did not provide a competent response in their May 14, 2015 letter.
- Did not provide any public notification or consultation for the 50% increase in plant cycling flow from that presented in their 2012 Addendum.
- Has made significant design changes to their building plans, so need to update the Acoustic Assessment Report previously provided.

If the proponent will not provide the Addendum and conduct the environmental assessment process as required we request that this **proposed project be cancelled**, with the knowledge and comfort that the proponent's agreement with the Ministry of Natural Resources and Forestry is that they have **no rights to claim any costs or expenses** as the proponent chose to provide incorrect and misleading information in their 2005 proposal. Further detail is provided below.

Required Process

- 1) The *Guide to Environmental Assessment Requirements for Electricity Projects*, January 2011, describes the Environmental Screening process, for example:
 - a) Section A.6.1 states:
 - *"it is the proponent's responsibility to provide sufficient information in the screening process"*
 - *"The proponent's report under the Environmental Screening Process ... is made available to the public and agencies for a minimum 30-day review period."*
 - *"The project must be implemented in the manner described in the Screening Report or Environmental Review Report"*
 - b) Section B.2.2 states:
 - *"In describing the project, proponents must include all phases and components of the project, including construction, operation, and retirement of the project. It is inappropriate for proponents to break up or 'piecemeal' a larger project into separate components or phases, with each part addressed as a separate project. Therefore, the construction and operation of related facilities such as an access road or fuel handling facilities, and associated activities such as construction traffic, discharge of cooling water, or waste disposal, are to be included as part of the project description."*
- 2) However, the proponent's 2009 Environmental Screening/Review report and 2012 Addendum did not describe:
 - a) Dumping stones and rock **completely across** the base of the Bala north falls or **completely blocking** the water flow down the Bala north falls.
 - Instead the proponent stated they may construct a temporary bridge **above** the Bala north falls and that they would maintain a continuous flow of water down the Bala north falls, as is required by the *Muskoka River Water Management Plan*.
 - b) That their 42'-wide building would **tower more than 20' above Muskoka Road 169** – and this tall building would be just 20' from the road. This would be crammed-up closer to the road than most towns and cities allow houses to be.
 - Instead the proponent had previously committed that their building would **not** rise above the level of the road.
 - c) Starting in-water work as early as June 1.
 - Instead they had committed to starting after July 15.

Clearly these are major and environmentally-significant changes, the proponent's claims they are minor is just their desperate attempt to mislead the MOECC.

Detail

The proponent's letter of May 14, 2015 and the Ministry of the Environment and Climate Change's acceptance of this in your cover letter of May 26, 2015 cause us great concern, for example due to the following.

1) Minimum flow over the Bala north falls

a) In their 2012 Addendum, the proponent stated they would provide the required continuous flow of water down the Bala north falls, as follows:

- The *Muskoka River Water Management Plan* states in Tables 5.2 and C1 "Existing Flow and Water Level Operating Constraints" that prior to the MRWMP for the Bala north and south dams: "*Minimum outflow of 3.0 m³/s from each dam is to be maintained by leakage or log removal to maintain downstream water quality*".

- Clearly **continuous** flow down **each** falls is environmentally required.

Furthermore, the MRWMP (emphasis added):

- Page 12-1 states: "*The following section provides the detailed operating plans which identify flow and level **compliance requirements** for the individual control structures on the Muskoka River System.*"
- Reduced the volume of flow required down each of the Bala falls to 1 m³/s as page 12-106 states that the seven-day average minimum daily flow from Lake Muskoka is: "*6 m³/s summer target (inclusive of 4 m³/s from Burgess)*".
- Page 1-3 states: "*This water management plan (WMP) sets out **legally enforceable** provisions for the management of flows and levels on this river within the values and conditions identified in the WMP*".

In their 2012 Addendum the proponent agreed to maintain this continuous flow needed to prevent stagnation, for example (emphasis added):

- Executive Summary and Section 1.4 states: "*the proposed **minimum continuous flows** of 1 m³/s through the North and South Bala Dams and the 4 m³/s through Burgess GS*".
- Section 2.2 states: "*continuous minimum flows of 1 m³/s **through each of the North and South Bala dams** will be maintained*".
- Section 6.2.1.6 states: "*Minimum flows of 1 m³/s over the North and South Bala Dams **will occur at all times**, such that during periods of cycling, some flow passage will continue into the Bala reach **to prevent stagnation of flows**, which may have some mitigating effects on benthos on the shoal areas.*"

b) However, the proponent's May 14, 2015 response includes completely unsubstantiated statements such as:

- "*there is no requirement to 'continuously maintain flow' over the walleye habitat during the period when the upstream cofferdam is in place.*"
- And concerning the **tripling** of the area dewatered by the cofferdam and completely changed by the proposed construction activities, the proponent states: "*The construction of the cofferdam is not anticipated to 'destroy' aquatic habitat*" and this "*relatively small increase in dewatered area ... is not expected to cause 'Negative Environmental Effects'*".

These are fundamental questions of fish habitat, and the author of the proponent's May 14, 2015 letter does not have any relevant credentials and is therefore not qualified to make such fish habitat determinations.

- c) The proponent proposes that for ten months the Bala north channel would be blocked by their upstream cofferdam which would have a section that could be quickly removed during a high-flow event. This would be a most unusual design, but no details are provided showing this could actually be done. Also:
- Given the blasting and excavation of the proposed construction, it has not been explained how the Bala north dam would at **all** times be able to handle the flows due to the cofferdam section needing to be removed on an emergency basis.
 - After the proposed station excavation is started and before the interim cofferdam is constructed, removing the upstream cofferdam would result in flooding the Moon River.

Therefore, if a high flow event occurs while the upstream cofferdam is in place the proponent's construction plans have too high a risk of either flooding Lake Muskoka or flooding the Moon River.

The public must be informed about this cofferdam design and the proponent's "emergency plan" noted in their May 14, 2015 letter.

- d) Page 16-2 of the MRWMP notes that the Steering Committee is legally responsible for operations.
- Page 13-1 notes that: *"Twenty-four hour daily average data elevations will be the basis of all compliance and enforcement auditing, monitoring, inspections and reporting."*
 - So the proponent's ten-month proposed construction period would be an unacceptably long period of time to be out of compliance with the MRWMP.

Therefore a **Minor Amendment to the MRWMP is required**, as is described in Section 17.2.1.

We therefore request that the proponent be required to:

- a) Provide an Addendum which describes the impact and mitigation of these environmentally-significant changes.
- b) Request a Minor Amendment to the MRWMP and to participate as required in the resulting process, and that the proponent's proposed change in flow be approved before any change of minimum continuous flow down the Bala north falls be permitted.

2) "Ramp-bridge"

The proponent's 2012 Addendum introduced the possibility of their building a temporary construction bridge over the Bala north falls. A bridge over the falls would apparently not impact the falls as it would be several feet above the falls.

However at a later construction stage, the proponent now apparently also plans on dumping stones and rock across the full width of the Bala north falls. Their application to Transport Canada as required by the Navigation Protection Act describes this as a "downstream access ramp" to carry heavy construction vehicles. This ramp was never described in either the proponent's 2009 Environmental Screening/Review report or their 2012 Addendum.

The proponent attempts to deceive the MOECC into believing this stone and rock road dumped across the Bala north falls would be as benign as a bridge several feet above the falls by making up a new word in their May 14, 2015 letter – a "ramp-bridge". This is

completely ridiculous, there is no such thing as a “ramp-bridge” any more than there is a fruit called an orange-apple. They are simply different things.

Significantly, this temporary construction road would be just a few feet from the only Type 1 Walleye habitat associated with the Bala north falls. Heavy construction vehicles can leak hydraulic oil, diesel fuel and other hazardous liquids. Yet this environmentally-significant change has never been disclosed to the public or addressed in the proponent’s 2009 Environmental Screening/Review report or 2012 Addendum.

We therefore request that the proponent be required to provide an Addendum which describes the negative impacts and mitigation of this significant change to their previously disclosed plans.

3) In-water work window

In both their 2009 Environmental Screening/Review report and 2012 Addendum the proponent committed to the MOECC and the public that they would start in-water work only after July 15 *“in order to protect warm-water species reproduction”* as stated in Section 5.2.7.1 of their 2009 Environmental Screening/Review report.

However, more recently, the proponent has requested to start in-water work as early as June 1. As this would have environmental significance, assessment, including public notification and assessment, is required.

As a proponent-driven process, **the proponent has the responsibility** to assess the environmental impact of this proposed change, and this assessment must be done by someone with credentials and qualified to do so.

- a) The author of the proponent’s May 14, 2015 letter does not possess such qualification.
- b) The environmental impact of this proposed change has therefore not been properly assessed, this proposed change has not been communicated to the public, and the public has not had an opportunity to provide comment on this.

An Addendum, prepared by personnel competent in aquatic habit, is therefore required to properly assess the negative impacts and any possible mitigation of this environmentally-significant change to the proposed start date for in-water construction work.

4) Silt curtain

Figure 2.9 of the proponent’s 2009 Environmental Screening/Review report showed that the only Type 1 Walleye habitat associated with the Bala north falls is at the base of it. The proponent’s 2009 Environmental Screening/Review report and 2012 Addendum showed that all in-water works would be more than 65’ away from this important fish habitat.

- a) However the proponent has since changed their plans and would now create a temporary construction road just a few feet away from this area by dumping stones and rock completely across the base of the Bala north falls.
- b) The proponent has not provided any; environmental assessment, notification to the public, or public consultation for this environmentally-significant change.
- c) In their May 14, 2015 letter, the proponent makes the **ridiculous statement** that *“silt curtains were considered in the 2009 ESRR and the 2012 Addendum and*

therefore do not represent changes in the project". The crucial factor is the **new location** of the silt curtains, not the fact that it has been known for many years that the proponent intends to use silt curtains (as do all such projects).

We therefore request that in an Addendum, the proponent disclose to the public:

- a) The extents of the proposed temporary construction road and silt curtain relative to the fish habitat.
- b) The design and expected performance of the silt curtain (for example would it contain fluids leaking from heavy construction vehicles), and how this would be monitored.
- c) How the removal of the silt curtain would be performed to minimize the impact on the fish habitat (for example, what inspections before and after removal).

5) Height of proposed building

a) Proponent's commitment:

- The proponent's original 2005 proposal committed that the roof of their building would be below road level, as they stated: "*Its roof will be below road level*". This was confirmed by Figure 2.4 in their 2005 proposal.
- The proponent continued to show the roof of their proposed building would be below road level at their 2007 Public Information Centre, as confirmed on page 10 of Appendix D5 of their 2009 Environmental Screening/Review report.
- On pdf page 29 of the Appendices for their 2012 Addendum (in which they presented their current Alternative 1A plan), the proponent provided a dimensioned drawing showing the roof of their proposed building would be 30' above the Moon River.

As this is the height of Muskoka Road 169 above the Moon River the proponent therefore again confirmed their commitment that the roof of their building would not be above road level.

It is also important to note that in Section 2.1 of their 2012 Addendum the proponent states: "*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.*"

That is, **for over ten years the proponent has consistently stated to the public, to the MNR, and to the MOECC that the roof of their proposed project would not be higher than the road.**

- This is important as the most important view which first-time visitors to Bala see is that down the Moon River, and this would be a major determinant whether they stop and stay a while.
- Therefore, not blocking this view down the Moon River is environmentally significant.

b) However, the proponent's May 14, 2015 letter:

- States that their 2012 Addendum provided: "*no specific ... dimensions ... of height*" and that: "*Nowhere in the 2012 Addendum does it commit to a powerhouse 'height level at or below Muskoka Road 169'*". **The proponent is wrong**, they did provide dimensions and they did commit in their 2012 Addendum that the roof would not be above Muskoka Road 169. They provided this in Appendix C, on pdf page 29 of the Appendices, and they

referred to this in their Addendum in Section 3.1: “... including the circulation of updated drawings for Alternative 1(1A) that were also posted on the project website.”

- Lists six bullet-points noting that their 2012 Addendum stated that their Alternative 1A building would be higher than their Option 2 building. We agree, and in fact the dimensioned drawing the proponent provided on pdf page 29 of the Appendices of their 2012 Addendum confirms:

- That their Alternative 1A building would indeed be higher than their now-abandoned Option 2 plan.
- And specifically that their Alternative 1A building would be 30' above the Moon River, and this is more than 80% taller than their Option 2 building, which is also dimensioned and shown to be 16.6' above the Moon River.

The important point is that Muskoka Road 169 is 30' above the Moon River. So despite the proponent's Alternative 1A building being taller than their Option 2 building, **the proponent's showed and confirmed in their 2012 Addendum with a dimensioned illustration** that the roof of their Alternative 1A building would not be higher than Muskoka Road 169.

- It is also important to note that the proponent's dimensioned illustration on pdf page 29 of their 2012 Addendum shows that at the water's edge, their proposed building would be 40' wide when their current scale drawing shows it would be over 60' wide – **an increase of over 50%**.
- The proponent widely publicized this dimensioned illustration, as they:
 - Included it in a February 15, 2011 News Release.
 - Included it in a two-page flyer also dated February 15, 2011.
 - Have it currently posted on their web site under Notices and Links | Notices and Press Releases | February 15, 2011 News Release for New Renderings of Options 1 and 2, News Release (<http://balafalls.ca/2011-02-15%20new%20release.pdf>) and also Comparing Options Images (<http://balafalls.ca/2011-02-15%20comparing%20option%20images.pdf>).
- States that for their current plans their building would “*step down to approximately 2.0 m above the high water level at the water's edge*”.
 - This is a **blatantly deceptive statement which shows the disrespect the proponent has for this process and the public**.
 - As shown by the proponent's own scale drawing which was included in their December 16, 2014 presentation to the Township of Muskoka Lakes Committee of the Whole and which was submitted to Transport Canada, on top of their building at the water's edge there would need to be a 25'-high by 60'-wide steel structure to hoist the massive steel tailrace gates.
 - So at the water, rather than being the height of a person, their structure would **actually be more than 10 m (30')** high – that's the height of a **three storey building**.

Such **dishonourable conduct is inexcusable**, and certainly not deserving of the public's trust and taxes.

- c) So not only did the proponent's 2012 Addendum include a dimensioned illustration showing their building would not be above Muskoka Road 169, they have since stated: “*the peak of the roof would be 6.2 m above the road surface*” (that is, the building would actually tower more than 20' above the road).
- This is reported on page 2 of the March 26, 2015 meeting minutes of the Township of Muskoka Lakes Bala Falls Working Committee. These minutes

were included in the Agenda for and presented at the April 21, 2015 Township of Muskoka Lakes Committee of the Whole meeting.

This was also shown on a scale elevation drawing provided by the proponent in their December 16, 2014 presentation to the Township of Muskoka Lakes Committee of the Whole.

- The proponent also included this drawing in a video they posted October 20, 2014 on Youtube.com (at <https://www.youtube.com/watch?v=0r0Fdmds0w8>, a copy of this video is at <http://savethebalafalls.com/wp-content/uploads/2015/06/SwiftRiverArchitectExplainsProjectDesigns-BalaFalls20141020.mp4>).

The proponent is **again not telling the truth**, as the:

- Proponent has provided dimensions confirming they would no longer honour the commitment they made in their 2012 Addendum.
- Proponent's current plans are that the roof of their proposed building would actually tower more than 20' above the road, blocking the view down the Moon River with a concrete building.

People won't come to Bala so their view of the water can be blocked by tall concrete buildings, they get that in Toronto.

- d) The proponent's May 14, 2015 statement: *"The powerhouse was described in a very general sense in the 2012 Addendum. There was no specific square footage or dimensions of footprint or height provided."* is therefore **false** as they did provide dimensions in their 2012 Addendum – on pdf page 29 of the Appendices.
- e) Ontario's *Environmental Assessment Act* defines that "environment" includes:
 - *"the social, economic and cultural conditions that influence the life of humans or a community"*
 - *"any building, structure, machine or other device or thing made by humans"*Further, the *Guide to Environmental Assessment Requirements for Electricity Projects* states that *"The project must be implemented in the manner described in the Screening Report or Environmental Review Report"*.

Clearly, the proponent **has made environmentally-significant changes** and must therefore be required to submit another Addendum.

6) Zinc Contamination

The proponent's November 2013 Environmental Site Assessment reported a test result with an unacceptably-high level of Zinc contamination in the groundwater.

- a) This requires re-testing, but the proponent has **not** done this.
- b) This test was taken **upstream** of the likely source of the contamination, so the actual contamination may be substantial.
- c) The re-testing should be done well in advance of any planned construction work to allow time for possible site remediation.

The proponent should be required to complete this re-testing and include the; results, remediation steps required, and any complications for handling leakage water pumped out of the proposed excavation, in an Addendum.

7) Dangers to in-water recreation

The proponent's May 14, 2015 letter includes even **more deceptive statements**, for example:

- a) *"The downstream modelling illustrates that there will be no impact to the riparian rights"*.
 - Riparian rights do not include the right of navigation or the safety of swimming from one's own dock, so the proponent has not addressed the concern that the treacherously turbulent water exiting their proposed project would create extreme dangers to both marine navigation and in-water recreation.
- b) *"Transport Canada reviewed and approved the current design"*
 - The Moon River and the Mill Stream (Burgess Creek) are not listed on the schedule for the *Navigation Protection Act* and the proponent did **not** follow the "Opt in" provisions of the *Navigation Protection Act*.
 - Therefore **Transport Canada's assessment did not include** assessing the dangers to in-water recreation the proposed project would create in the Moon River.
 - Transport Canada did not assess the existing dangers to marine navigation in the Mill Stream as part of their suggesting this could be part of an alternate portage.

Therefore, **Transport Canada has not assessed** and their approval does **not** indicate:

- Marine navigation to the Town Docks on the Moon River or to the three private docks upstream of that would be safe.
 - The suggested alternate portage routes would be safe.
- c) Boats docking at the Town Docks on the Moon River (which are the only public docks on the Moon River) and at the three private docks upstream would need to travel through the fast and turbulent water exiting the proposed generating station.
 - It should be noted that this station would operate at full capacity an average of 21 days every summer.

The proponent and Transport Canada have not shown this would be safe.

Therefore, the proponent **has not addressed the issue of safety** at the Town Docks on the Moon River or anywhere else downstream of the proposed project and we request this issue be included in a new Addendum.

8) Flow Distribution Plan and Proposed Cycling Operation

The proponent submitted a *Preliminary WMP Amendment Report*, dated August 15, 2014 to the Ministry of Natural Resources. This includes environmentally-significant changes for which the proponent does not have environmental approval:

- a) The proponent convened a Flow Distribution Committee, for which they determined: *"the membership, mandate, agenda, and presentation material for this group and inviting guest speaker(s)"*. The proponent also wrote and issued the minutes for the four meetings held, which were circulated to both the MNRF and MOECC. The proponent broadly publicized the Scenic Flow Plan which they told the Flow Distribution Committee, as follows:
 - As a web page at <http://balafalls.ca/scenicflow.html>

- In a September 30, 2014 press release, which is posted on their web site under Notices and Links at <http://balafalls.ca/2014-09-30%20press%20release%20fdc.pdf>

As detailed above, the proponent offered “Concession Flows”, of slightly higher flows on selected long weekends.

However, on page 5 of the proponent’s *Preliminary WMP Amendment Report*, the proponent **unilaterally and without notice to or consultation with the public** states that these Concession Flows will only be provided when river flows are greater than 26 m³/s. This is the first time the proponent has stated this new restriction:

- It was **not** included in the presentation September 17, 2014 presentation to the Flow Distribution Committee.
- It was **not** included in the minutes to the September 17, 2014 meeting minutes.

This shows yet again that the proponent has no respect or regard for the public input they solicited, that their “public consultation” process is a **meaningless waste of time for all involved**, and that the proponent reneges on important commitments made.

- b) On page 7 of their *Preliminary WMP Amendment Report* the proponent notes that the plant flow during cycling operation will be up to 30 m³/s.

However, the Executive Summary, Section 1.4, and Section 2.2 of the proponent’s 2012 Addendum state that plant flow during cycling operation will be 20 m³/s.

- This **50% increase** in plant flow for cycling operation would have **negative impacts on both in-water recreation and fish entrainment**.
- The proponent is attempting to make **self-serving and environmentally-significant changes without informing the Ministry of the Environment, without assessing the negative impacts, and without the public consultation** requirements of the environmental assessment process.

The proponent reneging on commitments made to the public and to the Minister of the Environment, in documents not made public shows a **complete disrespect for the environmental assessment process and is an insult to the public**.

The proponent must be required to provide the public notification and consultation required by the Environmental Assessment Act, for example by providing another Addendum.

9) Noise calculations

Appendix C1 of the proponent’s 2009 Environmental Screening/Review report provided an Acoustic Assessment Report for their Option 2 plan. Since that time:

- a) The proponent has **changed to a vertical turbine design** and a building design with a **removable roof** (rather than 8"-thick concrete), neither of which were modelled in this Assessment Report.
- b) As the proponent has now selected the actual turbine and generator equipment to be used, so several commitments in this Assessment Report must now be fulfilled, for example:
- Section 1.1 states: *“Detailed noise impact assessment would then occur during the detailed design stage, as a precursor to the eventual application for*

a Certificate of Approval(s) (Noise) for the facilities under Section 9 of the Environmental Protection Act.”

- The proponent is now in the detailed design stage, so would now know if the proposed building would have windows or other areas where the walls would not be 8"-thick concrete. Therefore the proponent can now complete this detailed noise impact assessment.
- Section 2.2.1 states: *“it is assumed that the location of the air inlet grilles and the air discharge is as indicated in Drawing 327078-SK-401”*
 - The location of these grilles should now be known, so the impact on the Points of Reception can be corrected.
- Section 2.2.3 states: *“The definitive sound power levels of the generator cooling equipment and the transformer will be obtained from the suppliers, once the supplier and generator/air cooling systems and transformer have been selected during the detailed design process. This source sound power level will then be used to predict the sound pressure level at nearby sensitive receptors to ensure compliance with the sound level limits identified in this report.”*
 - As the proponent has selected the equipment to be used, the proponent can now utilize the correct sound power level information.
- Section 3.1 states the noise source would be a: *“4.3-MW Axial Flow Bulb-type turbine unit”*
 - The proponent has since specified a larger unit, and it would not be axial flow, so these calculations need to be corrected.
- Section 4.1 states: *“When more specific source noise data and the receptor locations become available, the noise impact table will be finalised to show the predicted noise levels at the receptors.”*
 - It is now time for this specific source noise data to be used.
- Section 4.2 and 5.1 note the Points of Reception.
 - These should include the look-out and adjacent Portage Landing as the public would frequently be at these locations.
 - The owner of Receptor R-1 does live and sleep there, so this should be considered a residential building.
 - The proponent’s current design would be both taller and closer to Receptors R-3, R-4, and R5, so Table 4.1 needs to be updated.
- Section 4.3.3 states: *“The primary sources of this noise are the falls located north of the project area”*
 - This background noise of the falls would be substantially reduced at the flow of 1 m³/s which would occur during most of the year, so this needs to be corrected.

For all the above reasons, the proponent needs to use the **current and correct information, update this Assessment Report**, and provide this to the public.

- c) As we noted in Section 2.5 of our *SaveTheBalaFalls ESR Technical Response*, dated November 27, 2009, the proponent included only two of at least the six noise sources in their Assessment Report. This needs to be corrected.
- d) The proponent noted the following in their 2-page document *Mitchell Shnier response to Comments on Noise* which was attached to their 12-page response to me which was dated April 1, 2010:
 - *“We agree that the site can be treated as a Class 3 location”*
 - This change needs to be included in the updated Assessment Report.

- *“It is our intention that the powerhouse will be a windowless poured concrete ‘box’ constructed with thick reinforced concrete walls.”*
 - The actual wall thickness and materials need to be used for the updated Assessment Report.
- *“The more significant noise source outside the powerhouse is the ventilation openings”*
 - The location and size of these ventilation openings should now be known by the proponent and therefore included in the updated Assessment Report.
- *“Ideally, noise predictions should usually be done using octave band data. This data will not be available from suppliers before the equipment has been procured”*
 - The proponent has stated they have now procured the equipment, so the correct octave band data needs to be included in the updated Assessment Report.
- *“The report as written is a preliminary submission to the Ministry of the Environment and a more detailed submission will be prepared later as a part of the approvals process.”*
 - This more detailed submission needs to now be prepared.
- *“we will estimate the sound levels at the ‘Park’ locations when the final submission to the Ministry is made”*
 - It is now time to estimate the sound levels at the Park.
- *“We will also re-visit the Stone Church and Purk’s Place issues and ensure that they are suitably protected from any noise that might otherwise escape from the powerhouse ventilation openings”*
 - It is now time to ensure this is done.

For all the above reasons and using the above information, the proponent needs to prepare and submit an updated Acoustic Assessment Report for review by the public.

10) Risks to the Bala north dam

The proponent’s 2009 Environmental Screening/Review report and 2012 Addendum **did not describe modifications to the structure of the Bala north dam.**

However, we now know that the proposed construction **would include removing the entire wing wall** from the upstream side of the south pier of the Bala north dam. This **would affect the structural integrity of the Bala north dam.**

The excavation, and the dewatering of the excavation would likely cause settling of the south half of the Bala north dam, which would also affect the structural integrity of the Bala north dam.

As Ontario’s Environmental Assessment Act defines that “environment” includes: *“any building, structure, machine or other device or thing made by humans”*, the proponent must include an assessment of these negative environmental impacts, including the risks and possible mitigation of these, especially considering that a section of the upstream cofferdam may need to be removed at any time due to a high flow event.

We request the proponent provide an Addendum which includes this information.

11) Appendix C: Screening Criteria

The author of the proponent's May 14, 2015 letter is **not** qualified to provide the responses in this completed "Appendix C" in their Attachment E which concern **fish habitat or cofferdam design**. The proponent must therefore retract these statements until they are substantiated and provided by **competent personnel**.

Our Requests

As a result of the environmentally-significant changes the proponent has made to their plans previously presented:

- 1) We therefore repeat our request that the proponent be required to:
 - a) Fulfill the Addendum Provisions of the *Guide to Environmental Assessment Requirements for Electricity Projects*, including submitting another Addendum.
 - b) Request a Minor Amendment to the MRWMP, fully participate in the required process, and that this Minor Amendment be approved and completed before any change in the minimum continuous flow down the Bala north falls be allowed.
- 2) We also request that the following be provided to the public:
 - a) The proponent's permit applications and the approvals they have received under the *Lakes and Rivers Improvement Act*.
 - b) As referenced in their May 14, 2015 letter, the detail provided to the MNRF concerning the proposed;
 - Silt curtain plan.
 - Cofferdam with removable portion.
 - Stones and rock temporary construction road across the base of the Bala north falls.
 - "Detailed emergency plan should an extreme flood event occur during this time that cannot be passed by the adjacent Bala South Dam".
- 3) We note:
 - a) The proponent has **demonstrated they do not have the competence**, credentials, or qualifications to provide many of the responses in their May 14, 2015 letter.
 - b) The proponent has not earned the right to proceed with their proposed complex and risky project.
 - c) As detailed in our letter of April 8, 2015 to Minister of Natural Resources and Forestry Mauro, which was copied to Minister Murray, the proponent is now renegeing on fundamentally important commitments which they have consistently been making since submitting their 2005 proposal to be awarded the opportunity to pursue this work.

That is, the **proponent's 2005 proposal included incorrect and misleading information**.

As specified in the MNR's 2005 Request for Proposals, the proponent's contracts can therefore be rescinded with the proponent having **no right to claim any costs or expenses**.

Therefore, if the proponent will not follow the proper procedures above we **request this proposed project be cancelled**, and are comforted that the proponent could not claim any costs or expenses, as it was **their choice to provide incorrect and misleading information in their 2005 proposal** and it has been their choice to renege on their fundamentally-important commitments.

Sincerely,



Mitchell Shnier, on behalf of SaveTheBalaFalls.com

Cc: The Honourable Glen Murray, Minister of the Environment and Climate Change,
GMurray.mpp@liberal.ola.org

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

MPP Norm Miller, MPP for Parry Sound – Muskoka, Norm.Miller@pc.ola.org

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