

August 13, 2017

Lisa Trevisan
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Hello Ms. Trevisan:

Re: Proposed hydro-electric generating station at the Bala falls

Summary

As the proponent has stated they intend to begin work “imminently”, and your letter to me appears to both have incorrect information and not fulfill the MOECC’s obligations, I request to meet with you within the next two weeks to discuss the items below.

Detail

I received your letter dated August 2, 2017, which was e-mailed to me on August 8, 2017 and appreciate that you have noted that the environmental assessment process requires that the proponent is to: “*consult with members of the community*”.

Unfortunately this requirement is not being fulfilled as the proponent is both unresponsive and secretive, for example:

- 1) The proponent has two lawyers working to prevent me from seeing records that I requested **over two years ago** through the Freedom of Information process, even though the MOECC agreed to release these to me. This Fol request has now been Appealed to the Information and Privacy Commissioner of Ontario and is at the Adjudication stage and it will apparently be many months until the Adjudicator makes a ruling.
- 2) Your letter suggests I contact the proponent for further information. Over the past two years I have written **more than ten letters** to the proponent asking fair and relevant questions about their plans, but they do not reply.
Clearly, the proponent does not: “*consult with members of the community*”.
- 3) Your letter also suggests I contact the Ministry of Natural Resources and Forestry concerning the Public Safety Measures Plan which you state the proponent has updated. On August 8, 2017 I sent a letter to the MNRF about this, and perhaps they will reply, but:
 - a) In the past they have repeatedly shown they do not have a responsibility to be responsive to the public. For example, I e-mailed the MNRF on July 16, 2017 requesting to meet, but they have not replied to this.

- b) If the proponent has updated the Public Safety Measures Plan and the MNRF attempts to release it to me, it appears the proponent will attempt to block this, just as they have done with my Freedom of Information requests to the MNRF, which I have been working to receive for **more than two years** and is also under Adjudication at the IPC.
- 4) Your letter states that: *"SREL undertook additional testing in October 2016; the results of the testing found zinc levels to be undetectable."*
- a) This statement is not credible as the 2013 Environmental Site Assessment found levels of 26.6, 12.6, and 1,040 µg/L for the groundwater from each of the three exploratory boreholes. **It does not seem possible that the levels in all three exploratory boreholes could have dropped below the detection limit**, which may be 5 µg/L.
- b) The source of contamination would be equipment buried when the hydro-electric generating station previously operating there was covered over more than 45 years ago:
- The exploratory boreholes were all **upstream** of this equipment, so these test results are quite meaningless as the contamination was of the groundwater which would be **flowing downstream**. To be meaningful, the testing should have been of exploratory boreholes downstream of the equipment location.
 - Of further concern is that while not above MOECC guidelines, the 2013 ESA also showed elevated levels of copper and lead, which is further indication that the current information should not be taken to indicate there are no environmental concerns.
- 5) The proponent's construction plans require settling tanks to test and treat water pumped from their planned excavations. I understand the proponent now has a new plan that these settling tanks would be located **in the Moon River**.

I understand that such settling tank plans require an Environmental Compliance Approval from the MOECC. Last year the MOECC determined that because this proposed project was subject to an environmental assessment, this ECA would be exempt from posting on the Environmental Registry, so the public would not be notified of these plans or have an opportunity to comment.

I do not believe this exemption is appropriate for this situation, for the following reasons:

- a) It would be extremely unusual to locate settling tanks on a riverbed, such a plan was not presented by the proponent for their environmental approval, and the public therefore would have no way to know of the many environmental risks this could create.
- b) For example, in the past the proponent has stated they may stack their proposed settling tanks to reduce the footprint required. The proponent has also stated they would use rock from their excavations dumped onto the riverbed to create a level surface for their settling tanks.

It would therefore be possible that stacked settling tanks could tip over, dumping contaminated and untreated water and sediment directly into the Moon River.

The public deserves to know more about this most unusual plan to locate settling tanks on a riverbed. It is not the responsibility of the public to have to chase down this information.

Rather, for such environmentally-significant new plans, according to the Environmental Bill of Rights and the Environmental Assessment Act, it is the responsibility of the MOECC to require that the proponent make such plans available to the public, along with the opportunity to provide comment.

- 6) I understand the proponent has now proposed yet another upstream cofferdam design which:
 - a) Has never been presented to the public.
 - b) Could apparently fail catastrophically.
 - c) Could cause flooding of Lake Muskoka.

Clearly, the proponent's change to this new design is environmentally-significant, so should be subject to the environmental assessment process.

- 7) The MOECC has the direct responsibility to involve the public, rather than sending us to other Ministries or to the proponent. For example:
 - a) The MOECC's Statement of Environmental Values states:
 - *"The Ministry will encourage increased transparency, timely reporting and enhanced ongoing engagement with the public as part of environmental decision making."*
 - *"The Ministry of the Environment and Climate Change believes that public consultation is vital to sound environmental decision-making. The Ministry will provide opportunities for an open and consultative process when making decisions that might significantly affect the environment."*
 - b) Section 12 of the Environmental Assessment Act and Section B.5.2 of the *Guide to Environmental Assessment Requirements for Electricity Projects* clearly state that when a proponent makes changes where: *"there may be negative environmental affects"* the proponent must prepare an Addendum.

Our request

To uphold their Statement of Environmental Values, I therefore request that the MOECC inform the proponent that while their 2013 environmental approval is still valid, if they wish to proceed with these new plans, the proponent must submit an Addendum, to include:

- 1) Their updated Public Safety Measures Plan, so the public can learn how the proponent intends to operate their proposed project safely.
- 2) The complete Environmental Site Assessment or other lab test report provided to them as a result of the October 2016 testing you note.
- 3) The complete ECA application, showing the proponent's new settling tank plans.
- 4) Their new cofferdam plans.
- 5) Plans to properly excavate and handle the abandoned equipment from the generating station which used to operate at this location.

I note your letter to me was sent more than two months after you received my questions. As the proponent has stated they intend to begin work “imminently”, I request to meet with you within the next two weeks to discuss this further.

Sincerely,

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

Mitchell Shnier

Cc: The Honourable Chris Ballard, Minister of the Environment and Climate Change, CBallard.mpp.co@liberal.ola.org
The Honourable Kathryn McGarry, Minister of Natural Resources and Forestry, KMcGarry.mpp@liberal.ola.org
Norm Miller, MPP Parry Sound – Muskoka, Norm.Miller@pc.ola.org