

SaveTheBalaFalls.com

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September 26, 2017
corrected September 27, 2017

Dear Frank:

Re: Your August September 21, 2017 Construction Meeting for the proposed hydro-electric generating station at the Bala falls

As I stated at your meeting last week, I will show in this letter that Swift River Energy Limited does not have environmental approval to build a facility that rises above the level of Muskoka Road 169.

I will also take this opportunity to show that the many meeting interruptions were well-deserved, due to incorrect statements made by you and John Kim Bell.

1) Height of proposed facility

a) The proof:

- Appendix 1 to this letter is Figure 5.1 from your 2009 Environmental Screening/Review report, which was for your proposed and now abandoned “Option 2” design. This design would have required building on both District and Township land.
 - At the bottom of this Figure 5.1 is “Cross Section C” which clearly shows that the roof of the facility would have been below the level of Muskoka Road 169.
- Appendix 2 to this letter is page 29 of 63 from the Appendices of your 2012 Addendum to your Environmental Screening/Review report. This Addendum was for your currently-planned “Alternative 1A” design.
 - The top figure shows that the roof of your Option 2 proposal would have been 16.6' above the level of the Moon River.
 - The bottom figure shows that the roof of your current Alternative 1A design would be 30' above the level of the Moon River.
- Appendix 3 to this letter is a marked-up version of a drawing currently on your web site at <http://www.balafalls.ca/plans>. The added red text and lines show that:
 - Muskoka Road 169 is 30' above the level of the Moon River.
 - Your current plans are that the roof of your facility would be 55' above the Moon River, and 25' above Muskoka Road 169.

b) This is significant, as:

- Both of your environmental assessment approvals were for facilities that would not rise above Muskoka Road 169, yet your current plans are for a facility that would rise 2½ storeys above the road, blocking the crucial view down the

Moon River for passers-by, at the time when they would be deciding whether to stop and stay a while, or continue on elsewhere.

This unapproved change would therefore have economic impacts.

- Appendix 4 to this letter is your January 23, 2013 final environmental approval from the Minister of the Environment, which concludes: “*Swift River Energy Limited must implement the Project in the manner it was developed and designed, as set out in the Environmental Screening Report*”.

Therefore you do not have environmental approval for your current plans.

c) At the meeting last week:

- You seemed to be stating you have environmental approval for your currently-planned facility height, but you do not.
- As you were providing incorrect information to the public, I had to interrupt.

If you disagree with any of the statements in this letter, or with any of the articles posted at [SaveTheBalafalls.com](http://savethebalafalls.com), please let me know so we can discuss this.

2) Footprint of proposed facility

On the topic of the size of the proposed facility, as detailed in the article at <http://savethebalafalls.com/?p=7077>, in your 2012 Addendum:

- a) Figure 2.1 shows the footprint of your proposed facility as 401 m², and in Section 2.1 it is stated: “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.”
- b) However, instead of being smaller, your current drawings show the footprint would be 50% larger.

Therefore you do not have environmental approval for the larger footprint of your proposed facility either.

3) Respect

You stated at your meeting: “*we have been as respectful as we possibly can*”. I had to interrupt at this point as well, as I have written 11 letters to your company over the past two years on serious and unaddressed issues such as public safety. These letters were all polite, and asked specific, fair, and relevant questions. You have not responded to, nor even acknowledged these letters, clearly showing no respect for the public or their valid concerns.

As I stated at the meeting, you’ve had more than two years to build a respectful relationship with the public. Yet; your web site has not been updated in the more than 22 months since most information was removed from it, you have not provided any information to the public on the timing or disruptions of your current pre-construction work, and you’ve ignored all my letters.

Your company’s behavior and actions have been extremely insulting and disrespectful, and this has infuriated the community. That is why you were not given any respect at your meeting.

At your meeting you claimed that my questions have been answered: “*ad nauseam over and over again*”. This is incorrect; you have not answered my questions at all, you haven’t even replied to my questions, and you have not provided any Safety Plan.

As only written answers are meaningful, I gave you yet another chance to be responsive, requesting that my questions for last week’s meeting be answered before noon on September 20, 2017, yet you ignored this request as well.

At your meeting last week you asked if we wanted to: “*help us make it the best possible powerhouse in Canada*”. Your opportunity to do that passed many years ago. Your company has bullied and ignored the community for the more than twelve years you have been pursuing this opportunity. Your attempting to take as much as you can has irretrievably established a hated reputation for your company and this proposed project and I will therefore not agree to be on your proposed Construction Committee, as I would not want to be seen to be associated with, or a liaison to, your company in any way.

4) Not responding to, and providing incorrect information to, the public

Instead of answers, when we and rest of the public ask questions to the Ministry of Natural Resources and Forestry (MNRF) and the Ministry of the Environment and Climate Change (MOECC), we receive the reply: “*I recommend you address them with Swift River Energy Limited directly. Information about the project, and contact information for the company, can be found on Swift River Energy’s website, www.balafalls.ca.*”. Unfortunately, your company:

- a) Has ignored and not responded to the last 11 letters I have sent, and even hand-delivered, to you over the past two years.
- b) Ignored my request for written answers to the questions I submitted for your public meeting on August 21, 2017.
- c) Has two lawyers working to prevent us from receiving information through the Freedom of Information process.
- d) Has not updated your web site in the 22 months since you removed most of the information from it.
- e) Provides incorrect information to the public, such as:
 - That your current design would have a positive impact on the Bala Portage, when in fact it would destroy it.
 - That the roof of your proposed facility would not be higher than Muskoka Road 169, when it would be 2½ stories above it.
 - That the footprint of your proposed facility would be no larger than presented for your environmental approval, yet your current design would be 50% larger.
 - That your proposed project would have no adverse effects on heritage landscapes, when in fact you would clear-cut all trees and pile the area with blasted rock.
 - That your proposed project: “*will not generally diminish the public’s enjoyment of the area for swimming, boating ...*”, when in your own information shows the proposed project would make the area too dangerous for in-water recreation.
 - That: “*the project’s economic impacts will be positive*”, when you did not even consider any negative impacts.

In contrast, I note that in the eight years we have run our web site SaveTheBalaFalls.com, which has hundreds of articles posted, your company has never contacted us disputing any of the information on it.

5) Going forward

At your meeting last week you stated: "*if you want to go backwards to the environmental assessment process, I'm not interested*". You seem to think that somehow the issues you're ignoring don't need to be addressed. You have not shown how, or even if, the proposed project could be operated safely. This remains a fundamental problem going forward, and ignoring it does not resolve it.

6) Public safety

Mr. Bell began his attempt at moderating your meeting by stating: "*this is a very small project of 4.7 megawatts, at Brookfield we build 100, 200 megawatts, this is a very small run-of-the river safe hydro project*".

This is a meaningless comparison as these other projects would not be built close to in-water recreational areas.

Both the MNRF and your company have no experience building a hydro-electric generating station as close to both public and private docks, and in the middle of an in-water recreational area. All the public knows so far is that your proposed safety boom would not comply with the public safety guidelines of the Canadian Dam Association, and your lack of warning of increased flow to the Moon River would not comply with the MNRF's Public Safety Measures Plan.

As shown in Appendix 5 to this letter, the Addendum for your environmental approval showed the water would be dangerous only within your downstream safety boom:

- a) That proposed downstream safety boom was only approved by Transport Canada as safe enough for boating. Your own flow simulations show it would not be safe for the area's in-water recreation.
- b) Reasonable people would assume that the proposed downstream safety boom would encompass the dangerous waters – and they would be wrong. This deception would make this area even more dangerous.

So long as you do not release an approved Safety Plan, you have not shown this proposed project could be operated safely. Mr. Bell's claim this proposed project would be safe is therefore unjustified.

7) Cofferdam removal plan

To avoid flooding Lake Muskoka if required due to a rainstorm, the MNRF has required a cofferdam removal plan.

Implementing this plan could have negative environmental impacts, yet you do not have such approval from the MOECC.

8) Proposed settling tanks

Dennis Mills' request was that the construction trailers be moved to the vacant land "behind the tracks" – that is, to Diver's Point.

Your response that the railway bridge is too low, or the Bala Falls Road bridge is not strong enough did not address the request, as:

- a) Your crane could hoist these trailers over the railway tracks
- b) The trailers could be towed over the Bala Falls Road bridge, which has a posted capacity of 5 tonnes.

This dismissive and unjustified response is yet another example that this proposed project is only about what your company wants, with no regard for the community. This shows again that you actually have no intention of working with the community.

9) In-water recreation

Concerning the area's in-water recreation, Mr. Bell made the incorrect statement that: "*people weren't supposed to be swimming in there*". This is simply wrong. The Moon River is a navigable waterway, and therefore people have a right to be there, as provided by the riparian right of access.

It is true that the OPG/OPP "Stay Clear, Stay Safe" educational campaign advises that it is dangerous to swim near dams, but that is irrelevant as our concern is for people swimming; to their own docks, and to the Municipal docks which are the only public docks on the Moon River and which are far from the MNRF dam. This is shown in Appendix 6 to this letter.

So far your company has shown that their proposed downstream safety boom would not encompass the water their proposed project would make dangerous. This is entirely unacceptable and does not comply with required public safety guidelines, yet you have not responded to this major unaddressed issue.

The two tragic drownings in 2009 were people who could not swim, so does not indicate anything about the suitability of this area for in-water recreation.

10) Advisory

Even though it would be unprecedented to build a hydro-electric generating station in the middle of a very popular in-water recreational area, you have chosen to not address the serious public safety issues your proposed project would create. For example, your company has refused to disclose your proposed Safety Plan.

We have therefore prepared the Advisory in Appendix 7 to this letter, which we expect to be publicizing as a public service to any that are considering being on your proposed Construction Committee. I would appreciate your response on whether your company would provide such indemnification.

11) Neighbour relations

I have been told by the Operator of another southern Ontario hydro-electric generating station that it is important to have a good relationship with neighbours, as having an expensive facility in the middle of a hostile environment might lead to problems.

As you experienced at the meeting, your providing incorrect and misleading information and your intention of blundering ahead while attempting to ignore major unaddressed issues angers normally polite Canadians.

12) Risk of damage to District's highway bridge

- a) In a letter dated August 4, 2017, WSP Canada Inc. claimed there would be no flow in the Bala north channel when the proposed generating station is not operating.

- As a result, they dismissed the concern that your proposed central deflector wall could cause erosion at the highway bridge south bank when the proposed generating station is not operating.
- b) As shown in Appendix 8 to this letter, flow through the Bala north channel will occur regardless of whether the proposed generating station is operating or not, so WSP's claim is incorrect.

Therefore, the concern that the District's bridge could be damaged by the proposed project remains unaddressed.

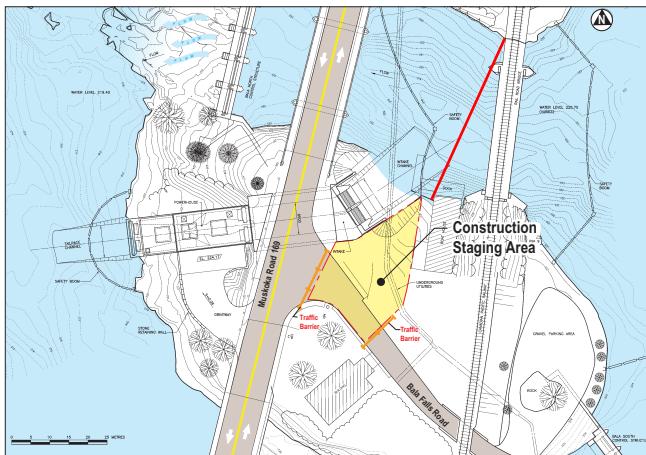
Frank, these are all serious and unaddressed issues. I would be happy to provide further background information, and to discuss these further.

Sincerely,

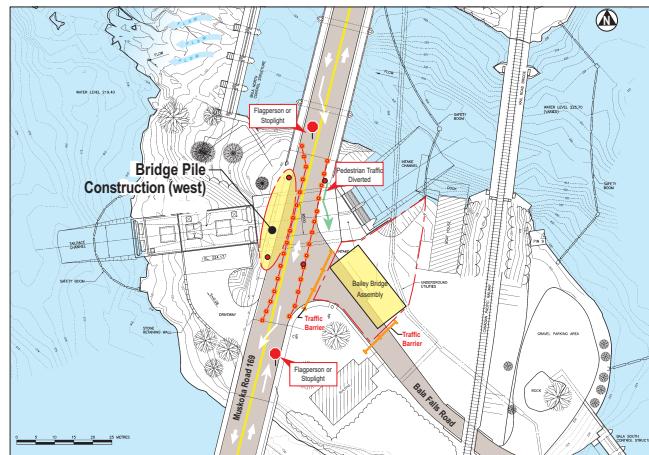


Mitchell Shnier, on behalf of SaveTheBalaFalls.com

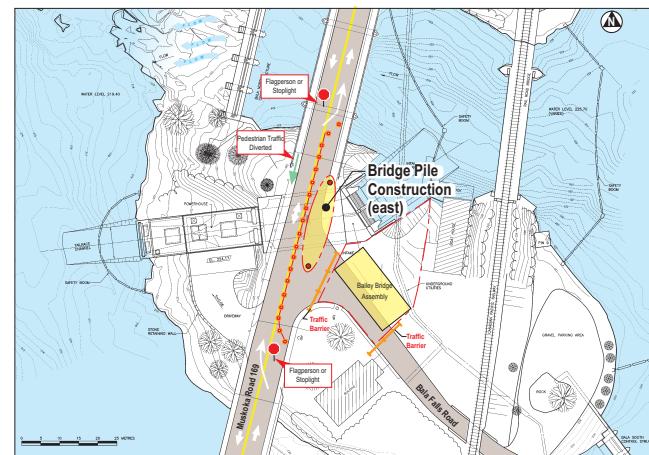
Cc: Nhung Nguyen, Swift River Energy Limited, NNguyen@horizonlegacy.com
[REDACTED], CRT Construction, [REDACTED]@crtconstruction.ca
John Kim Bell, jkb@johnkimbell.com, johnkimbell@bellbernard.com



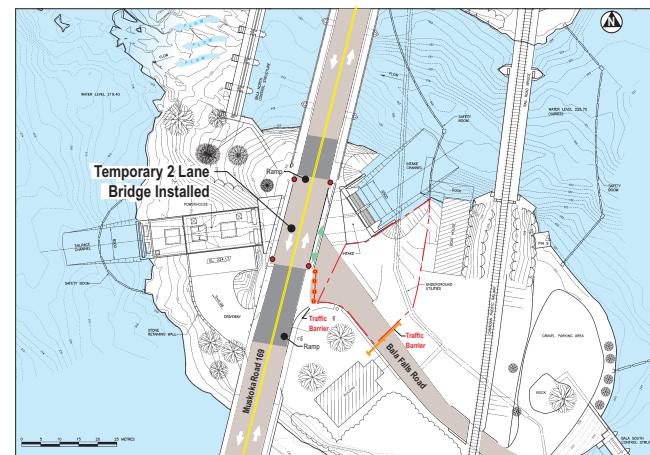
Stage 1
Mobilize and prepare construction staging area.



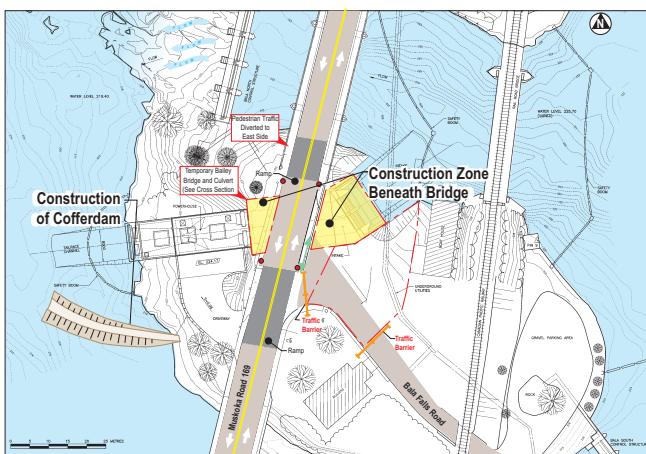
Stage 2a
Prepare Bailey Bridge west piles. Assemble Bailey Bridge on Bala Falls Road.
(approximately one week duration)



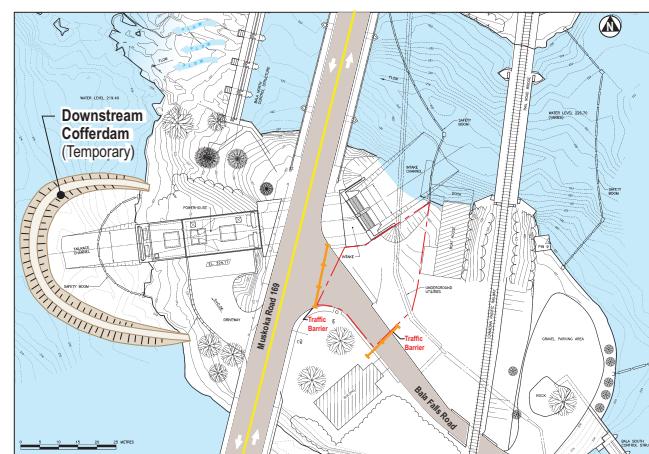
Stage 2b
Prepare Bailey Bridge east piles. Assemble Bailey Bridge on Bala Falls Road.
(approximately one week duration)



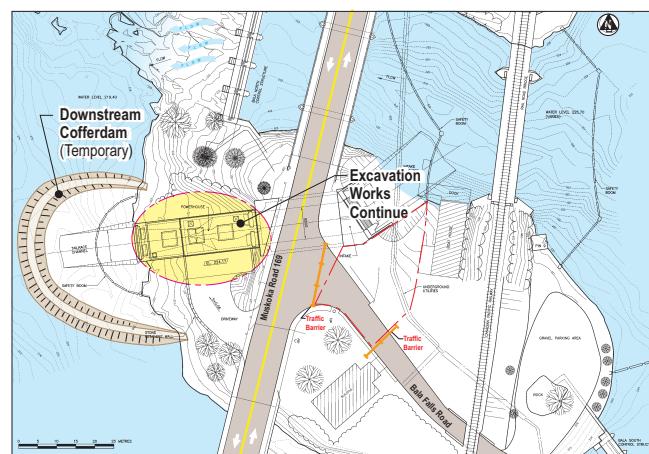
Stage 3
Crane places temporary Bailey Bridge on Highway 169 with end ramps.
(one night shift - closure)



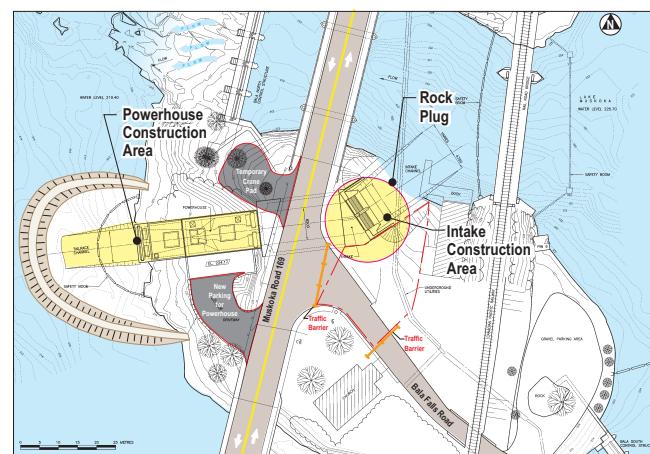
Stage 4
Construct box culvert beneath Bailey Bridge using cut and cover approach.
Excavated material to downstream cofferdam.



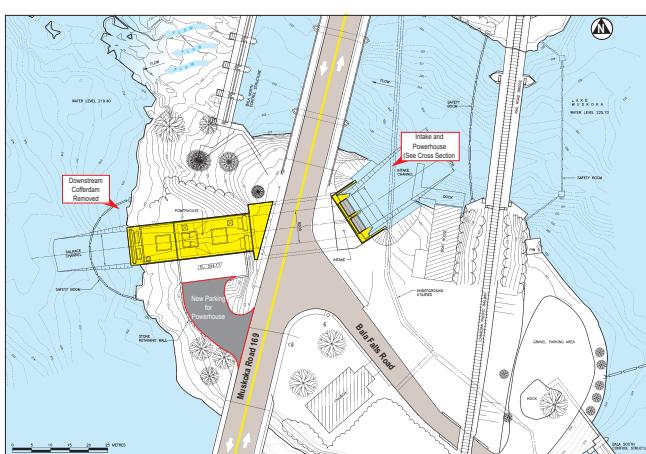
Stage 5/6
Crane removes temporary Bailey Bridge, final road fill placed. Highway 169 fully open for remainder of project. (1 night shift - closure ~ 4 hrs.)



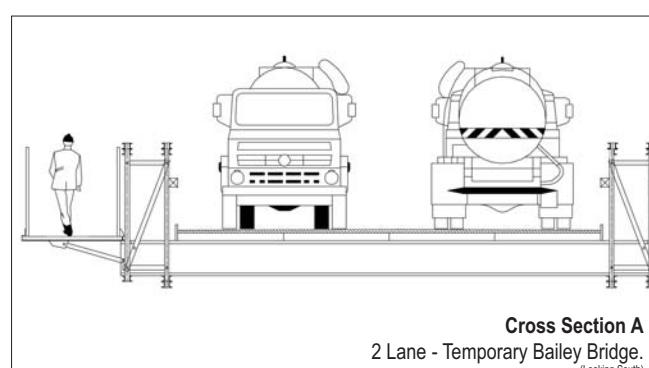
Stage 7
Excavate for powerhouse.



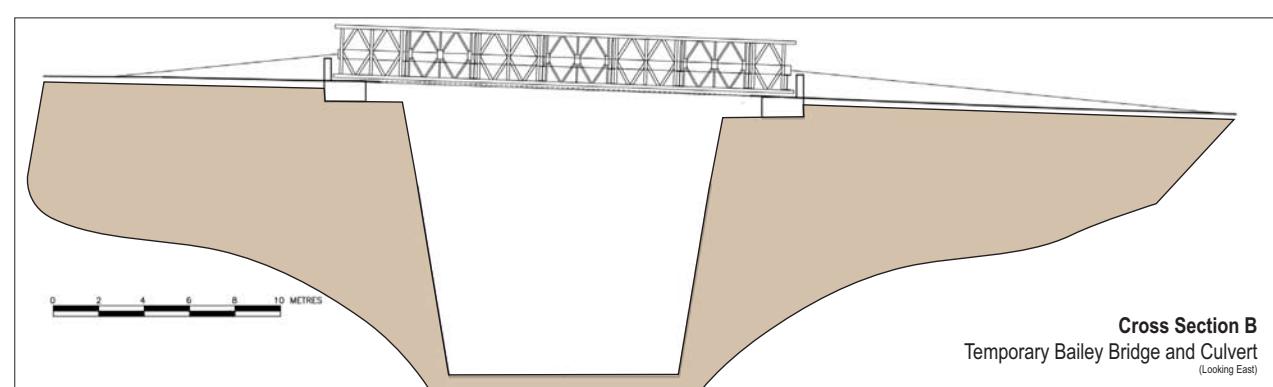
Stage 8
Construct Powerhouse and Intake.
(Intake channel to be excavated in water-blasting coinciding with rock plug removal)



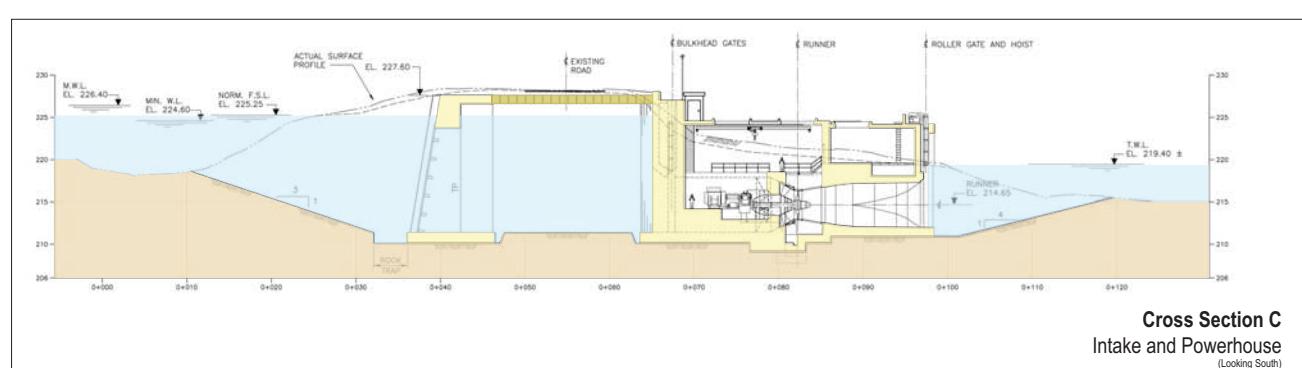
Stage 9
Commission generating facilities.



Cross Section A
2 Lane - Temporary Bailey Bridge.
(Looking South)



Cross Section B
Temporary Bailey Bridge and Culvert
(Looking East)



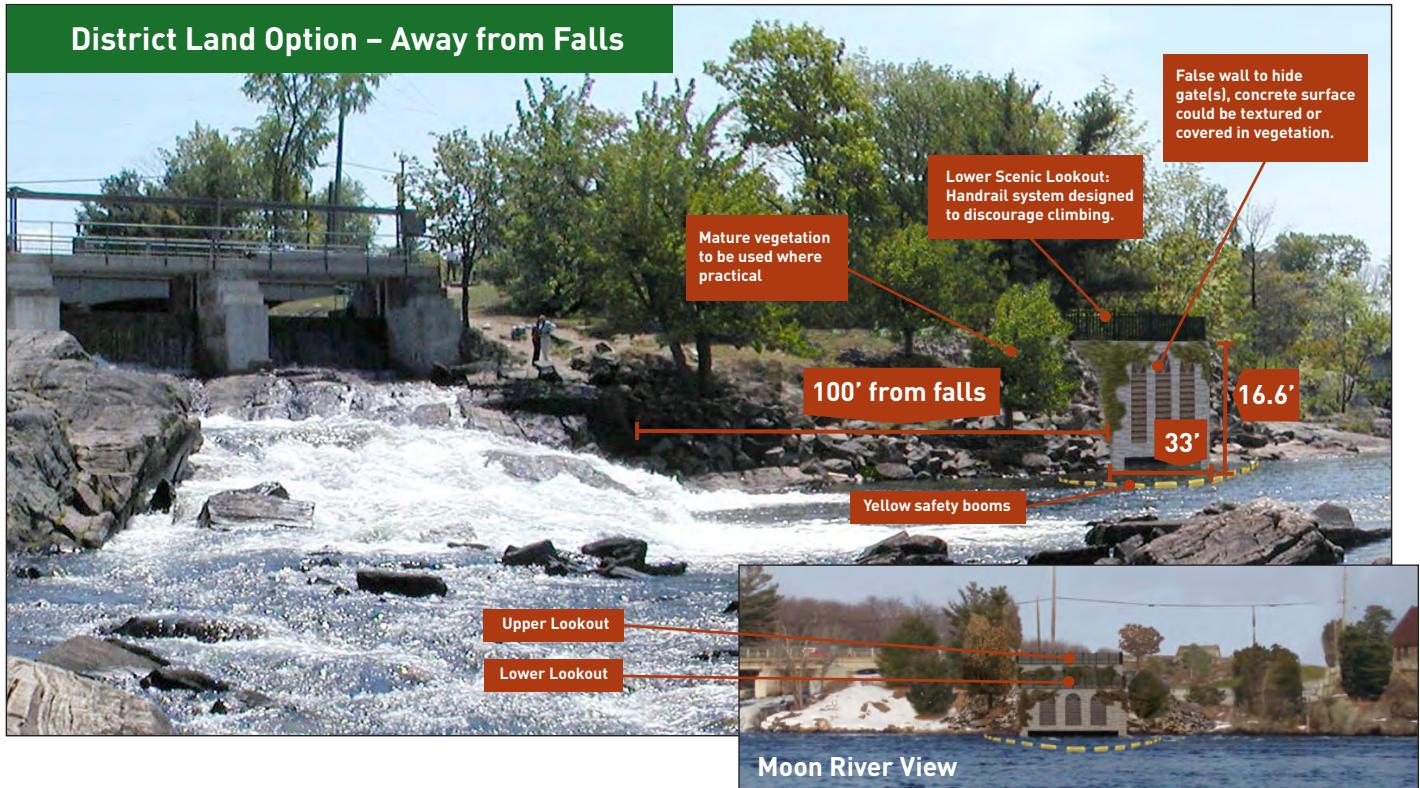
Cross Section C
Intake and Powerhouse
(Looking South)

Figure 5.1
Swift River Energy Ltd.
North Bala Small Hydro Project
Traffic / Construction Sequence

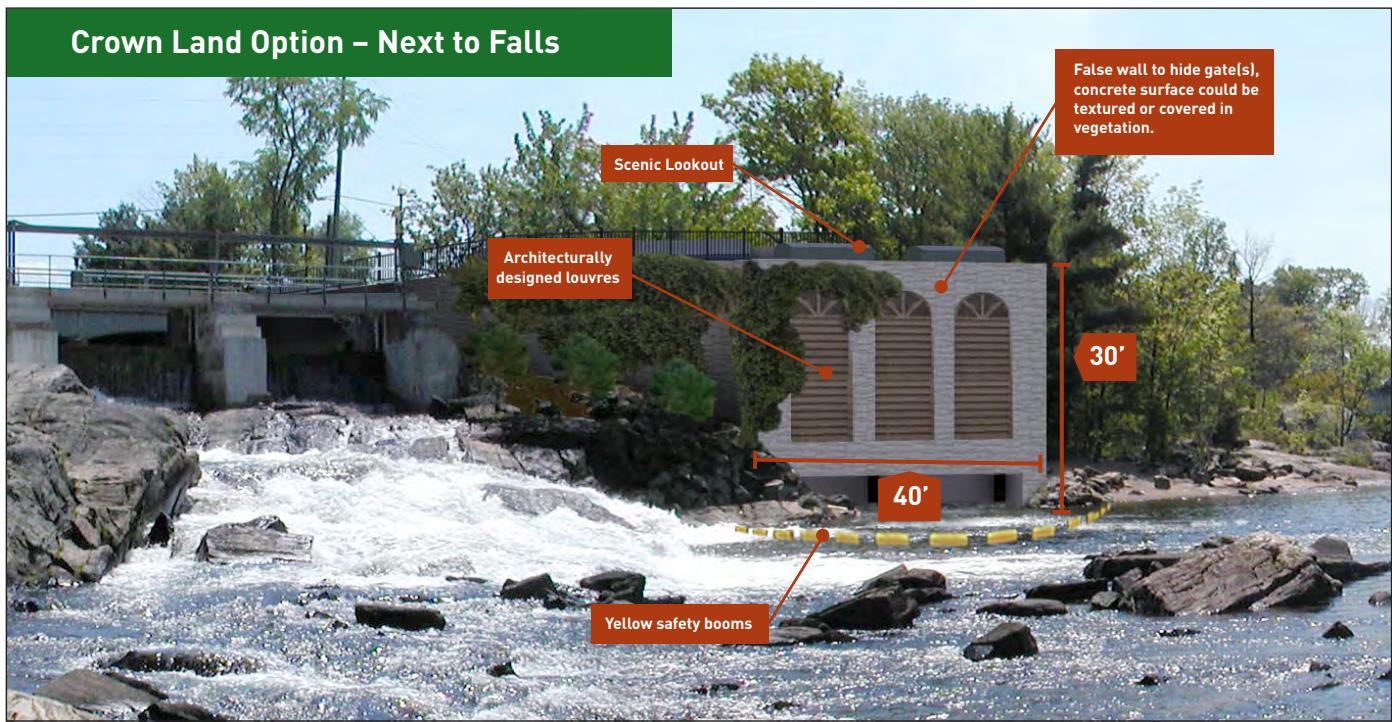
Features of the Bala Falls Small Hydro Project – Comparing Options

Learn more at www.balafalls.ca

District Land Option – Away from Falls

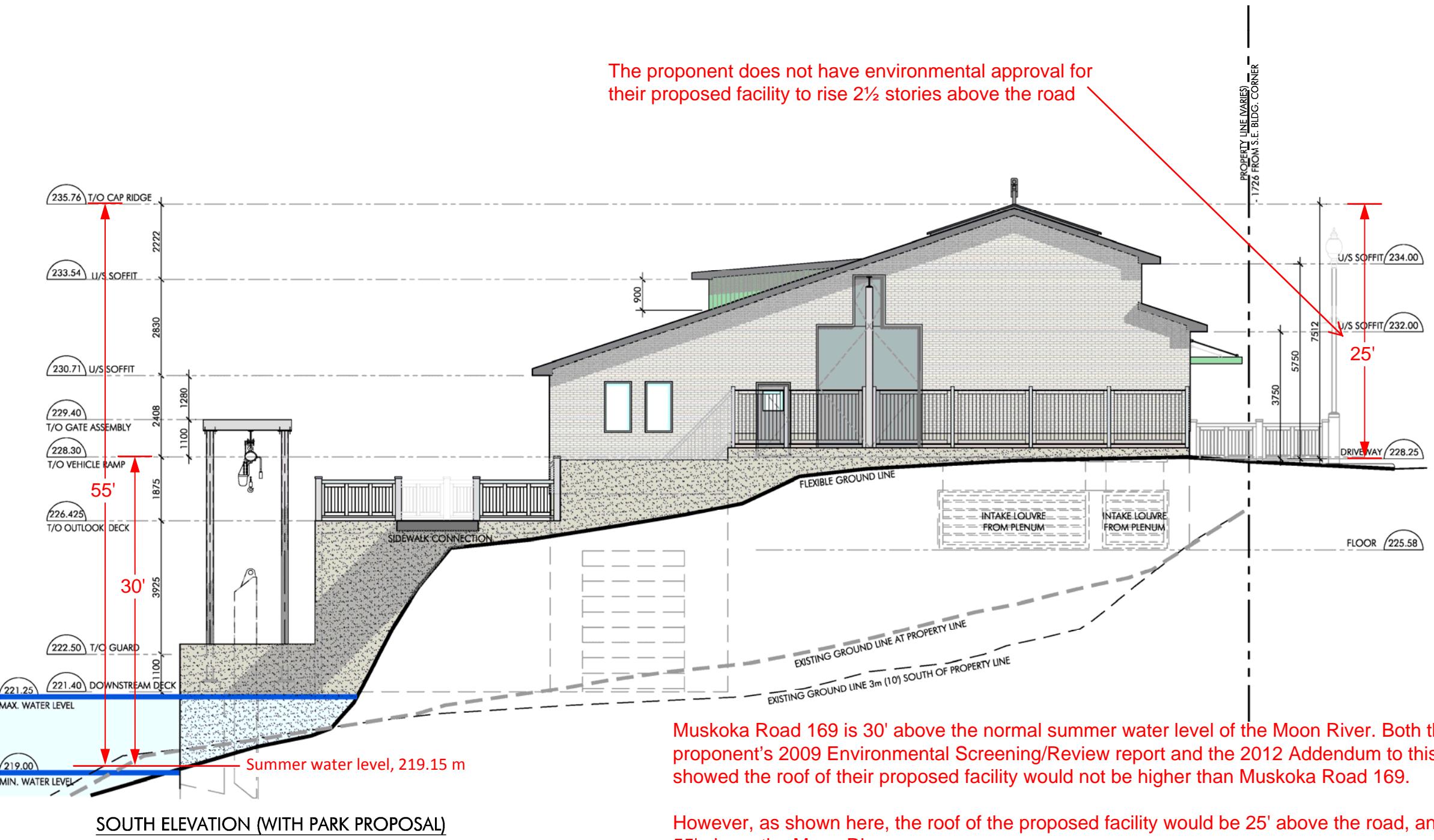


Crown Land Option – Next to Falls



Note 1: These photo representations show the relative size of the proposed hydro plant depending on its location on District or Crown land and with respect to the existing landscape.

Note 2: These photo representations are for public viewing and press publication only. They cannot be copied, distributed or changed in any way without the express permission in writing of Swift River Energy Limited.



Ministry of the Environment

Office of the Minister

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Ministère de l'Environnement

Bureau du ministre

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 Tél. : 416-314-6790
 Téléc. 416-314-6748



ENV1283MC-2012-3243

JAN 23 2013

Dear concerned citizen:

Thank you for your interest in Swift River Energy Limited's proposed North Bala Small Hydro Project addendum (Project).

You requested that the Minister of the Environment review the decision of the Director of the Environmental Assessment and Approvals Branch (Director) that an individual environmental assessment is not warranted for the Project. I am taking this opportunity to inform you that I have decided to confirm the Director's decision.

In making this decision, I have given careful consideration to the Environmental Screening Report addendum, the provisions of the Guide to Environmental Assessment Requirements for Electricity Projects, the issues raised in your request, and relevant matters to be considered under subsection 16(4) of the Environmental Assessment Act.

Swift River Energy Limited has demonstrated that it has planned and developed the Project in accordance with the Environmental Screening Process and addendum provisions of the Guide to Environmental Assessment Requirements for Electricity Projects. I am satisfied therefore that the purpose of the Act, "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," has been met for the Project.

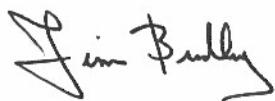
Your concerns together with the reasons for my decision are set out in the attached table. In your appeal, you may have also raised issues that were previously considered in past decisions by either myself or the Director, and that do not specifically pertain to the change in the Project itself. The Guide to Environmental Assessment Requirements for Electricity Projects states that, under the Environmental Screening Process addendum provisions, members of the public can only "request that the modification to the project be elevated to an Environmental Review or an individual EA." As some of your issues do not pertain to the modification of the Project, I am not able to review those issues under this decision making process.

I am satisfied that the issues and concerns have been addressed by the work done to date by Swift River Energy Limited, or will be addressed in future work that is required to be carried out.

With this decision having been made, Swift River Energy Limited can now proceed with the Project, subject to any other permits or approvals required. Swift River Energy Limited must implement the Project in the manner it was developed and designed, as set out in the Environmental Screening Report, and inclusive of all mitigating measures, and environmental and other provisions therein.

Again, thank you for bringing your concerns to my attention, and please accept my best wishes.

Yours sincerely,



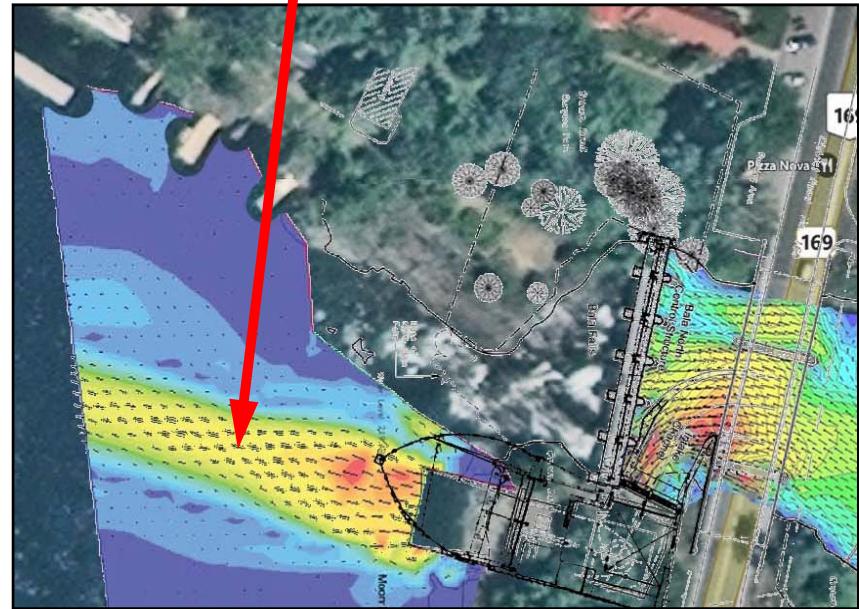
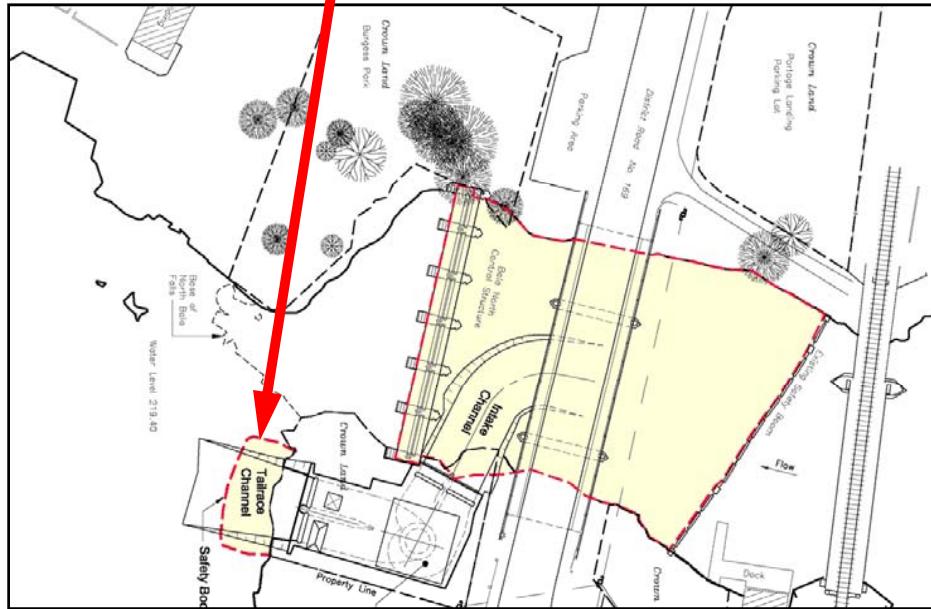
Jim Bradley
Minister

Attachment

c: Ms. Karen McGhee, Project Manager, Swift River Energy Limited

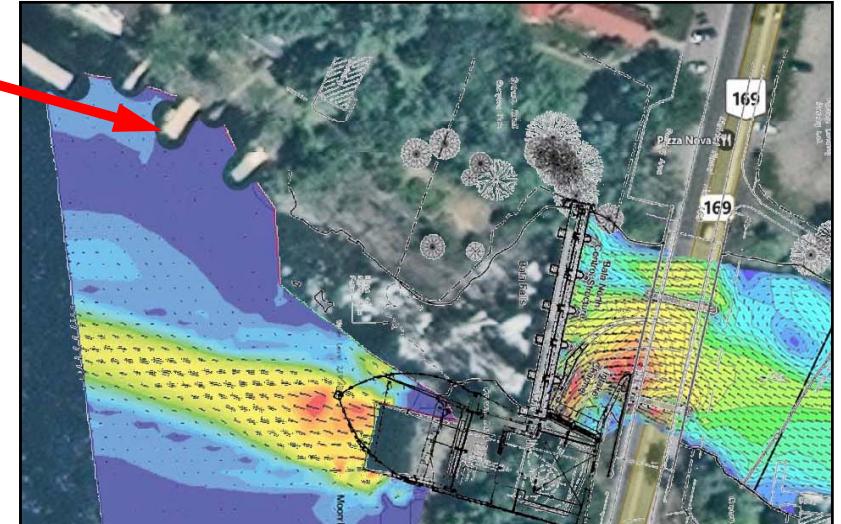
Fact: For their environmental approval, proponent stated their proposed project would make the water dangerous **only within** their downstream safety boom

⇒ But proponent's own information shows they would make the Moon River dangerous more than 160' **outside** of their proposed downstream safety boom



⇒ Proponent would **not comply** with their environmental approval
⇒ The MNRF has no experience with the flow from a generating station being as close to public and private docks and swimming

Fact: It would be **unprecedented** for a generating station to discharge this close; to an in-water recreational area, and to public and private docks



- ⇒ Water would be *too dangerous too far from proposed station*
- ⇒ “*Stay Clear, Stay Safe*” would not protect these people in front of their own docks and outside the proposed safety boom

SaveTheBalaFalls.com

September 21, 2017

Advisory

We understand that the proponent for the proposed hydro-electric generating station at the Bala falls is forming a Construction Committee which would include selected members of the public.

If the Proposed Project is built and it is subsequently claimed to be a factor in causing injury or death, a legal action could be initiated by the injured or on behalf of the deceased.

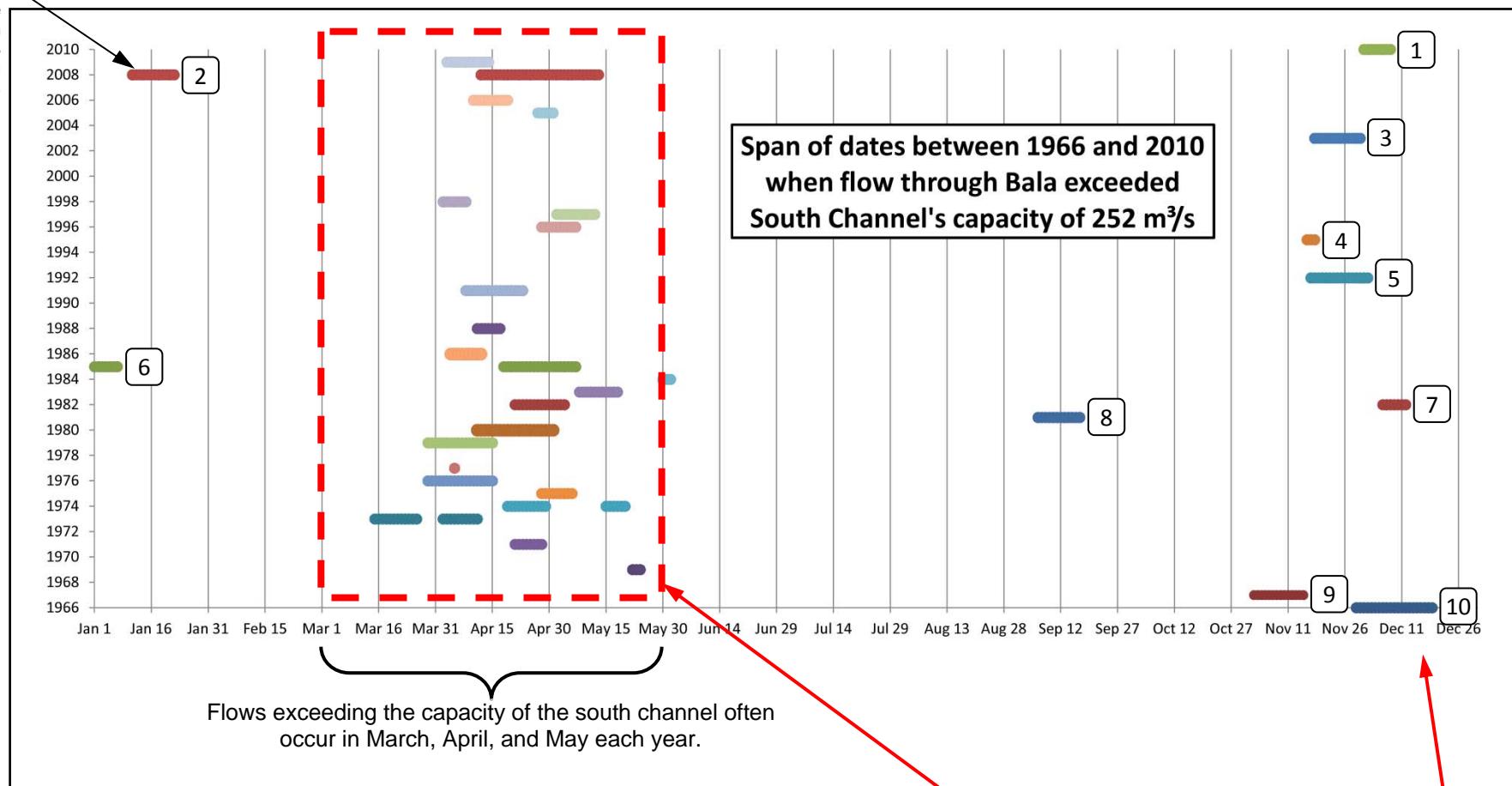
As this Committee could be seen to be facilitating the construction of the Proposed Project, members of this Committee might be named as defendants in such a legal action.

We would therefore advise any prospective members of this Committee, in advance of participating in this Committee's work, to require a written and unlimited indemnification from the proponent, protecting the Committee members against any claims or losses due to any such legal actions.

SaveTheBalaFalls.com

Environment Canada's WaterOffice flow data for the Moon River for the 45-year period, 1966 through 2010

This shows that
In 2008, flow
exceeded the
Bala south
channel's
capacity from
January 11 to 22



- 1) While it is expected that flows exceeding the capacity of the Bala south channel will often occur during spring freshet, analysing the historical flows through Bala shows that ten times in 45 years (that is, in more than 20% of years), flow in the Bala north channel is also required during the other nine months of the year.
- 2) The intake for the proposed hydro-electric generating station at the Bala falls would include a “central deflector wall”, which would direct water into the proposed intake.
- 3) When the proposed generating station is not operating, water redirected by the central deflector wall would need to go somewhere, and could swirl and cause erosion at the river bank at the south abutment of the District Municipality of Muskoka’s Muskoka Road 169 bridge over the Bala north channel.
- 4) The proposed generating station could be stopped at any time (for example, due to a local power failure, unscheduled operational problem, or for scheduled maintenance), and as noted above, flow will occur through the Bala north channel throughout the year.
- 5) Therefore, even when the proposed generating station is not operating, there would be flow in the Bala north channel, and this could cause erosion or even the collapse of the District’s highway bridge.