

November 17, 2017

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Hello Ms. Nguyen:

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

Summary

It appears your company's current work has risked, and continues to risk, causing irreparable environmental harm. Further, your treatment system for water pumped from your site appears to be either faulty or inadequate as more than once it has overflowed, spilling untreated water onto the Township's Precambrian Shield parking lot.

Detail

Concerning your letter dated November 13, 2017, I note this is the first time in more than the nine years that the SaveTheBalaFalls.com web site has been running that we have been asked to change information on it. We appreciate this opportunity to respond.

- 1) There is no misinformation and no correction required, as it did appear that your company would be: *"putting toxic contaminants into the Moon River"*, as follows:
 - a) On about October 5, 2017 your company brought six 40'-long overseas shipping containers to Bala and these had been treated by the manufacturer with insecticides. Photographs confirming this are posted on our web site in the article at <http://savethebalafalls.com/?p=8463>
 - b) When we posted the above article on November 4, 2017, your contractors had spent a full month trying to modify these shipping containers to be settling tanks, as your ECA requires that six settling tanks be used for water treatment. Your company was just days away from flushing the water pumped from your proposed excavation through these contaminated shipping containers and directly into the Moon River.
 - c) It would appear that as a result of our article, on about November 9, 2017, your contractors removed four of these shipping containers from Bala.
 - Please reply: After putting so much time and money into bringing these shipping containers to Bala and attempting to modify them to be settling tanks, why did you move them out of Bala without ever having used them. Also, why are there two contaminated shipping containers still in Bala.
 - d) We usually don't change postings on SaveTheBalaFalls.com, as they were correct when posted. However, we will update the posting if you post an apology for putting contaminated shipping containers into the Precambrian Shield parking lot.

2) Your letter claims that your company is: *“in full compliance with the multitude of environmental regulations”*. This appears to be incorrect as I have carefully read your Environmental Compliance Approval (ECA), which was issued by the Ministry of the Environment and Climate Change (MOECC) on October 20, 2017. This ECA specifies the conditions for you to pump water from excavations, including that:

- a) Four 50'-long settling tanks be used to allow sediments to settle out of the pumped water before it can be discharged to the Moon River. But your on-site water treatment is not using any 50'-long settling tanks. As noted above, your company apparently abandoned plans to use these soon after your ECA was issued.
- b) The turbidity of the discharged water be tested daily. But the piping and tank configuration has no provision for drawing test samples of the discharge water being pumped into the Moon River.
- c) That the *“Proprietary Wastewater Treatment Plant”* would be in addition to these settling tanks.

It is clear your company is not treating the pumped water as was specified in your ECA. The Environmental Bill of Rights specifies that the public has a right to know how the pumped water is being treated. As this is no longer as specified in your ECA,

- Please reply: With details of your water treatment system, including; maximum design flow rate, sludge storage capacity, and flow rate that it has passed over the past week. Please also provide discharge water turbidity test results, and how you are drawing these samples.

3) I understand that your water treatment system uses three lamella clarifier tanks, and one storage tank which may have filter bags in it. We have videos from different days, of both the lamella tanks and the storage tanks overflowing and spilling untreated water into the Township's Precambrian Shield parking lot.

- Please reply: Has your company reported these spills to the MOECC, as is required by your ECA. Also, what was the cause that both of these tanks would overflow on different days.

4) Your 2013 Environmental Site Assessment (2013 ESA) did not test at the locations where polychlorinated biphenyls (PCBs) would be if such electrical equipment was left buried at your proposed construction site when the Bala #2 Generating Station was demolished in 1972. At that time, PCBs were still legal and widely used in electrical equipment, and there is no record if such electrical equipment was removed during the demolition work.

This is reinforced by your 2013 ESA, which notes that PCBs are: *“Contaminants of potential concern”* for: *“Electricity Generation or Transformation or Power Stations”*.

Therefore, not only does your planned excavation risk irreparable environmental harm, but the heavy construction equipment currently driving over this area could already be releasing PCBs to the Moon River.

- Please reply: As your 2013 ESA only tested upstream of the likely source of PCB contamination, what evidence do you have that there are no PCBs within your proposed construction site.

- 5) The Environmental Protection Act defines that: *“phase two environmental site assessment’ means an assessment of property ... to determine the location and concentration of one or more contaminants”*.

Your 2013 ESA noted that the ground water flow is to the west, and it is therefore a fact that the drilling for all of your site testing was upstream of the actual site where the PCBs would be, as we have detailed at <http://savethebalafalls.com/?p=8464>. It appears your 2013 ESA was therefore deficient.

- a) As the MOECC relied on your 2013 ESA (Environmental Site Assessment) in issuing their subsequent ECA (Environmental Compliance Approval, for your current pumping of water), this ECA should now be revoked, as we have asked in our outstanding request for a hearing at the Environmental Review Tribunal.
- b) As a result of this immediate, serious, and unaddressed environmental risk, and as the MOECC’s mandate is to: *“provide for the protection and conservation of the natural environment”*, we request your company to stop risking this environmental harm, and the MOECC to immediately revoke the ECA, until careful excavation, planned and supervised by a Qualified Person, ensures the proposed project site has no hazardous substances.
- c) These facts are material and should be made known to the company providing your Environmental Liability Insurance.

- 6) The plastic pipe you have suspended over the Bala south channel:

- a) Was installed with many pipe joints made on-site, and it appears these were never pressure-tested. Therefore, this pipe could be leaking untreated water directly into the Moon River.
 - Please reply: Will you do pressure testing of this pipe to confirm it is not leaking (your current plan of looking at it from a distance is not a reliable test).
- b) Is supported on posts in the Precambrian Shield parking lot, and these posts could be pushed over sideways by a strong wind acting on this 200'-long pipe. This could:
 - Seriously harm anyone nearby, due to being hit or crushed.
 - Dump untreated water into the Moon River, due to the pipe breaking.
 - Electrocute anyone nearby, due to the power cable that would break, as it is suspended along with the pipe.

Therefore,

- Please respond: Has this suspended pipe design been approved by a Professional Engineer licensed to practice in Ontario, and has the electrical installation been inspected by the Electrical Safety Authority.

- 7) These unaddressed environmental risks seem to continue a pattern of disregarding other’s rights in that it appears your company is currently infringing on the property rights of the District Municipality of Muskoka in four different ways; the foundation of your upstream cofferdam, the rock anchors for your upstream cofferdam, your suspended plastic pipe, and your taking down part of their chain-link fence.

- Please respond: Why did you not request permission before changing your plans to require these property encroachments.

We note that Section 8(c) of your land lease from the Township of Muskoka Lakes requires conformance with, among other things, the regulations of the District Municipality of Muskoka and the: *“removal of any unauthorized encroachment”*.

- 8) In response to your repeated invitation to join your “Construction Committee”, as noted in my September 26, 2017 letter to your company:
- a) Your company refuses to respond how, or if, your proposed hydro-electric generating station could be operated safely as it would be unprecedented to build such a facility as close to; a popular in-water recreational area, docks, and private residences. As anyone on this Construction Committee could be seen as facilitating your proposed construction,
 - Please reply: Would your company indemnify those on this committee from any legal actions resulting from claims of injury or death caused by your proposed project.
 - b) Over the past two years, I have written 11 polite and respectful letters to your company asking relevant questions on serious and unaddressed issues, but have not received any answers. If you really wish to: *“work together to ensure our project delivers benefits to the community and business owners”*, the first step would be for your company to answer the questions the public has been asking.
- 9) Your letter states: *“There are no toxic emissions from the project”*. This might be believable if you:
- a) Provide evidence that your excavations would not release PCBs to the Moon River.
 - b) Explain why your water treatment system overflows.
 - c) Answer the other questions above.

I normally don't copy technical letters to so many recipients, but leaving your letter unanswered may have left the impression that your company has adequately addressed the environmental risks of your current work.

Sincerely,



Mitchell Shnier, on behalf of SaveTheBalaFalls.com

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The Honourable Kathryn McGarry, Minister of Natural Resources and Forestry, KMcGarry.mpp@liberal.ola.org
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