

Green Energy Act does not apply to Bala Falls project

'The project does not require a Renewable Energy approval,' under the GEA says director at Ministry of Environment

BY TOM MILLAR
MuskokaTODAY Exclusive

Many members of the public have asked: "Why doesn't the Township simply stop the proposed Bala Falls hydro station project?"

Swift River Energy Limited (SREL) has received tendered approval from the province to build a new generation plant at the north Bala Falls.

On Aug. 11, Muskoka Lakes council was informed by their lawyer that the Township does not have the authority to stop or control Environmental Screening or the project to build an electrical generation plant at Bala Falls as this authority is solely with the province in accordance with the Green Energy Act (GEA).

At a public meeting in Bala on Aug. 14, Mayor Karen Ellis told an audience of more than 200 people that there was little the Township could do to put the brakes on the process of approval of the proposed hydro project.

In her own words, the mayor said: "We are under the GEA and we have to follow the legal process, whether we like it or not."

At the same meeting, Township CAO Walt Schmid noted: "Ontario's GEA has essentially handcuffed the Township in its ability to stop this project."

On April 13, SREL stated: All power from this project will be sold to the Ontario Power Authority under a feed-in tariff contract as part of the GEA.

More recently, SREL said the project is more feasible and attractive as a result of the GEA.

In a letter dated Aug. 20, SREL said: "Contrary to the fiction

being tossed around, the fact is that the Option 1 Plan was feasible in 2005 when we first started this project, and is only more attractive with the GEA."

MuskokaTODAY contacted the Ministry of the Environment about the applicability of the GEA in this particular case, given that it is a new act, and the proposed project is one of the first hydro projects that is being "said" to be covered by the GEA.

Agatha Garcia-Wright, director of the Ministry of the Environment replied: "The Renewable Energy Approvals Regulation under the GEA (Regulation 359/09 under the Environmental Protection Act), which is required for renewable energy projects, states that the provisions of Regulation 359/09 do not apply to waterpower facilities.

"Therefore, the project does not require a Renewable Energy Approval. The project is required to, and is currently proceeding under Regulation 116/01 (Electricity Projects), made under the Environmental Assessment Act," she said.

"As of September 2009, amendments to the Planning Act state that policy statements, provincial plans (with certain exceptions), official plans, demolition control bylaws, and zoning bylaws or orders passed or made under Part V (land use controls) do not apply to renewable energy undertakings."

SREL must submit facts to satisfy the Environmental Assessment Act without the shield of the Green Energy Act.

A resolution under the correct act will have to be reached about the proposed Bala Falls hydro project.



Councillor Dianne Davidson, left, responds to Elizabeth Dempster, centre, who took Mayor Karen Ellis and council to task following a council meeting Aug. 24, about the Bala Falls. Dempster admonished council for getting into a mess with the Bala Falls generating proposal at the expense of the taxpayers. (Photo by Tom Millar)

Muskoka Lakes council votes to continue Bala Falls project

BY TOM MILLAR

'You got yourselves in a mess and don't know how to get out of it other than at our expense.'

That was Elizabeth Dempster's comment to Muskoka Lakes Mayor Karen Ellis following a council meeting on August 24, about the Bala Falls agenda item.

At an Aug. 14 Town Hall meeting, the mayor and councillors in attendance (a majority of council), pledged to say "no" to the proposed Bala Falls generation plant.

But, subsequently, council had a change of mind.

The new resolution reconfirms the Township's request for an environmental assessment, and adds "process" to involve input from all stakeholders.

In the meantime, the Township is going ahead with a community information session Sept. 18.

Councillors representing the Bala Falls area, Mary Grady and Patricia Arney voted "nay" to the new resolution.

Appointed councillor Ron Brent was not present for a conflict of interest reason, but earlier stated that he is not in favour of the power plant at the falls.

Before council's vote, Swift River Energy made a presentation to council at a full Port Carling

community centre - reflecting the interest people have in this topic.

Swift River spokesperson Karen McGhee said certain people were raising "apocalyptic fears about the Bala Falls hydro project." She assured, that "those frolicking in the waters will do so in the future when the station is operating."

McGhee asserted: "The Township report does not justify a new resolution."

In addition, she expressed Swift River's point of view that "this is not a poker game."

With her finger darting forward, she warned that "Swift will adopt option #1, if option #2 is not supported by council - even though option #2 is the far superior alternative."

Option #1 is considered as blatantly imposing an industrial plant structure on the iconic Bala Falls landscape, say opponents.

Steve Currie, of The Moon River Association, was granted five minutes to respond.

He said "Swift is coercing you to make a decision rather than take care of the wishes of our community."

The association still remains in favour of "get the facts and only the facts on the table."

As such, Currie asked that the owners of Swift River attend

community meetings, present their own plans and state their own commitments, rather than the thoughts of a project manager and consultants.

Alice Murphy of SaveTheBalaFalls.com said that "people come to see the falls and not dry rock." She pointed out that "Swift considers social and economic issues as #7 on a list of concerns, but it should be second after safety for people."

She highlighted the fact that the parkland at the Bala Falls is not passive land. Rather it is active land that has always been a recreational area, dating back more than 100 years, and that is how it should continue to be used.

Mayor Ellis then welcomed the Township's external legal counsel to Muskoka and asked for legal advice.

The lawyer said that "Although there is nothing contractual, the proponent could bring legal action, claiming damages if council withdraws its support, even though the wording of the support is tepid."

The following remark from council was overheard: "Oh, that is new."

Council voted and passed 9 to 2 for the new resolution about the proposed Bala Falls generation plant.