

Walt Schmid

From: Walt Schmid [wschmid@muskokalakes.ca]
Sent: Sunday, December 05, 2010 5:54 PM
To: Walt Schmid
Subject: FW: SREI Council Reports.

Importance: High

From: Walt Schmid [mailto:wschmid@muskokalakes.ca]
Sent: Sunday, December 05, 2010 5:54 PM
To: Cheryl Mortimer (cmortimer@muskokalakes.ca)
Subject: SREL Council Reports.
Importance: High

Hi Cher.

Mayor Murphy has asked that we provide her with all documentation regarding the SREL project. Can you please pull all reports presented to council both in camera(if any) and in open session.

Of particular note would be any report(s) prepared that may have been generated with Resolution C-29-o8/07/08. Could' also see Agenda Reference 9.a.7. that is referenced to that resolution and the minutes of that particular meeting..

Thanks Walt

MUSKOKA


Walt Schmid, P.Eng.
Chief Administrative Officer
P.O. Box 129, 1 Bailey Street,
Port Carling, Ontario, POB IJO
Fax: 705 765-6755 Telephone: 705 765-3156
Email: wschmid@muskokalakes.ca
Website: www.muskokalakes.ca

Resolution Number: C-5-15/12/09

Councillor Brent - Councillor Hare: Be it resolved that the Special Council Meeting minutes held on December 7, 2009 be adopted.

Carried.

5. Delegations and Petitions

- a. Donna Wallace, Bracebridge Fall Fair Committee attended at 9:41 a.m., Re: Award Presentation - Firefighters Challenge.

Donna Wallace presented an award to Chris Foxwell and Cam McLeod, volunteer firefighters from the Port Carling Fire Station, for placing first in the 2009 Bracebridge Fall Fair Firefighters Challenge.

- b. Kevin Crozier, agent, Crozier Designs, attended at 9:45 a.m., Re: Item 10.a. New and Unfinished Business, Third Reading of By-law 2009-140, KRH Holdings Inc. *Refer to Item 10.a., New and Unfinished Business.*

- c. Bill Purkis, Moon River Property Owners Association (MRPOA) attended at 10:08 a.m., Re: North Bala Small Hydro Project.

Mr. Bill Purkis read the attached letter on behalf of Sandy Currie, President of the MRPOA, noting questions of concern that remain unanswered. The MRPOA would welcome the opportunity to work on a joint Committee in this regard. Mr. Purkis also submitted written comments on the Environmental Screening Report from both the MRPOA and Save The Bala Falls.

6. Business Arising from the Minutes

- a. Report from the Clerk Re: Action Items from Committee Meetings. A copy of the report is attached.

Resolution Number: C-6-15/12/09

Councillor Hare - Councillor Grady: Be it resolved that the following recommendations be enacted for action:

- November 25, 2009 Committee of the Whole meeting recommendations 2 to 7 and
- November 26, 2009 Planning Committee meeting recommendations 2 to 7.

Carried.



December 15, 2009

Mrs. Karen Ellis
Mayor
Township of Muskoka Lakes
1 Bailey Street
Port Carling, Ontario
POB 110

Dear Mayor Ellis,

I am writing on behalf of the members of the Moon River Property Owners Association (MRPOA). On their behalf, thank you for allowing us the opportunity to make this presentation today.

As I am unable to be present today, Mr. Bill Purkis, will speak in my place. Mr. Purkis is a long-time resident of Bala, a longtime member of MRPOA and one of our Directors.

I would like to publicly thank Mr. Walt Schmid, CAO, for the fine report that he and Township staff presented to Council on November 24, 2009. As one who also had to analyze and comment on the Environmental Screening Report (ESR) of Swift River Energy Limited (SREL), I am indeed aware of the formidable task that he and his staff faced.

Accompanying this letter are two supplementary documents which may be of benefit to Council and Staff. In this regard I would ask that these documents be passed on to Mr. Schmid and his staff for their reference and review.

The two documents are both Response Comments to the ESR, one from the Moon River Property Owners Association and the second from SaveTheBalaFalls, as authored by Mr. Mitchell Shnier, PEng of Long Lake in Bala. Both are important documents that capture many of the same elements of concern identified by Mr. Schmid's report, particularly with respect to Economic Impact, Water Levels, Flow Rates, and Construction.

Additionally, Mr. Shnier's analysis covers the ESR from start to finish, covering the aforementioned topics in considerable detail and identifying numerous issues of concern" many of which remain outstanding despite extensive communication with Hatch Energy during the Comment Period. Mr. Shnier's analysis has been written in laymen's terms and is well worth reading.

Moon River Property Owners Association
P.O. Box 157
Bala, Ontario POE 1A0

Council Delegation Dec 15/09 5.



MRPOA would welcome the opportunity to work, in conjunction with Mr. Schmid and Staff of the Township of Muskoka Lakes, on a joint committee to ensure a full and complete understanding is obtained from Hatch Energy and SREL regarding the significant number of questions that remain unanswered subsequent to the review of the ESR.

In this regard MRPOA notes that in addition to the concerns raised in Mr. Schmid's report, additional unanswered concerns remain relating to:

Public Safety and Navigation:

- How will swimmers on Bala Bay and the Moon River be protected from the strong currents that will be prevalent?
- How will boaters on Bala Bay be affected by a longer, and more intrusive, log boom?
- Will the boom to be installed on the Moon River eliminate portaging?
- Will the increased current from the tailrace make using the Moon River municipal dock a perilous adventure?
- Will private dock owners on the Moon River, west of the North Falls, be impacted by the log boom when attempting to reach their docks?
- Will the beach on Burgess Island be "off-limits" or too dangerous to use due to the effect of water exiting the tailrace?

Economic Impact:

- Exactly how detailed will any economic impact study be?
- How will a bench-mark be established and will a follow-up study be required at the 3 or 5 year mark following completion to assess the impacts?
- If there is a negative impact will compensation be offered and how will payments be guaranteed?

Esthetic Appearance:

- Park design is one aspect of the construction proposal, however the actual building design, site layout and overall potentially industrial exterior appearance remains of key concern.
- The possibility of constructing a permanent snowmobile bridge from Divers Point to the Bala Wharf has been mentioned. This would have a tremendous negative impact on the views that local residents have. Much more detailed work must be undertaken on the whole matter of preserving the winter economy of Bala.
- The landscaping of Burgess Island after construction has been over looked and should be a priority concern. The colorful drawings presented by



SREL are altruistic, dreamy and typical of how developers seek our support for projects that will take generations for nature to heal.

Construction:

- Vibration, dust, noise pollution from blasting, rock crushing and the use of heavy construction equipment needs much further and in-depth study by SREL.
- Traffic flows, impacts on tourism and emergency services have been underestimated from the perspective of how major construction will disrupt daily life in Bala. These need to be more fully investigated.

I have not touched on matters such as fish habitat, local employment, damages for the most impacted merchants and other sensitive matters in the interest of saving time for today.

MRPOA shares your concerns about the possibility for there to be extreme damage to the community and residents (seasonal and permanent) of Bala and we urge you to consider strongly our suggestion of a joint Township-Community committee to more fully examine the ESR and to raise those points which would be greatest mutual concern.

At the present moment, MRPOA sees no viable business reason why this project should be allowed to proceed. Certainly there is a return on investment for SREL, but that appears to be coming at the expense of placing the future of the entire Bala community in jeopardy.

I look forward to receiving your comments and look forward to working with you on this matter in the coming months.

Sincerely,

J. A. (Sandy) Currie
President
Moon River Property Owners Association



November 27, 2009

Director General of the Environmental Assessment and Approvals Branch
Ministry of the Environment
2 St. Clair Ave., West, Floor 12A
Toronto, Ontario M4V 115

Dear Director General,

I am writing to you today in my capacity as the President of the Moon River Property Owners Association.

The Moon River Property Owners Association (MRPOA) is located in Bala Ontario. Bala is within the Township of Muskoka Lakes. MRPOA represents 275 property owners on the shore of and adjacent to, the Moon River. The Moon River flows westward from Bala to Georgian Bay carrying the waters of Lake Muskoka.

The purpose of my letter is to bring forward the concerns of our membership, related to the proposed construction of a hydro-electric generating facility on the North Bala Falls Dam by Swift River Energy United Partnership. Specifically, this letter contains:

- Comments on the Environmental Screening Report (ESR) prepared by Hatch Energy on behalf of Swift River Energy United Partnership (SREL).
- A formal request of you to require Hatch Energy and Swift River Energy Limited Partnership (SREL) to prepare a full environmental assessment for the proposed construction of the facility on the North Bala Falls Dam.

Our letter will provide you with comments on the following topics:

- Public Safety
- Navigation
- **Economic** Impact
- Esthetic Appearance
- Noise Emissions
- Fish Habitat
- Construction

Moon River Property Owners Association
P.O. Box 157
Bala, Ontario P0C 1A0



Before going any further let me state that, In the opinion of our membership, there are two primary issues that are of major concern. These are

- Whether or not any hydroelectric development should be permitted at the North Bala Falls site, given the importance of the site to the community.
- No one has undertaken an in-depth economic study to determine what the best use of the site is and which alternative use will maximize the greatest long term economic benefit to Bala and the surrounding area .

"Not In My Back Yard" Issue

The members of the Moon River Property Owners association, are not **objecting** to the proposed development **in** a "NIMBY" manner.

We are very concerned about **the** environment - clean air, clean water and responsible stewardship of our natural **resources**. This position is clearly articulated in our Lake Stewardship Plan reflecting thoughtful input from the Moon River and Bala community. We support the philosophy of building hydro-generators to supply Ontarians with clean energy but only when such development makes sense.

To us, the plans to place a **hydro-generator** in the middle of Bala make no sense whatsoever. The miniscule output of the SREL facility compared to the electricity needs of Ontario shows that, in this case, it is **really** just about money for SREL or any future owners of the facility.

There are many other locations in Ontario where greater output of electricity can be had that "private sector investors" could develop. Bala appeals to SREL because it is an "easy-in", "easy-out" location where construction costs are minimal compared to other locations and where the return over **time** is **very** significant.

Public Safety

All lands, not used specifically as roadways, adjacent to the proposed site are used for recreational purposes (Burgess Island), as a private residence (the stone church) or for commercial purposes (Purk's Place Bait Shop). This is a matter of **public** record and has been the situation for **decades**. Now with the planned development, SREL intends to **place** a large hydro-generator in a location that conflicts directly with pedestrians, boaters, snowmobile operators, fishermen, **swimmers** and tourists simply visiting the site to view the scenic falls.



To our members this project will be an unwelcome intrusion into our lives and daily habits that is both unnecessary and dangerous. To tourists, it will most likely mean an end to their enjoyment of the vistas provided by The Falls. It will impact the entire community for generations to come.

For generations, children have jumped off the CPR Bridge at The Falls and enjoyed swimming in the waters above the dam. Now with the water intake location between Purk's Place and Highway 169 that area is not only going to be inaccessible to boaters it will **become** extremely dangerous to swimmers and scuba divers.

Why?

While there will be a safety boom above the intake site, it will be well beyond the reach and the swimming capabilities of the swimmers due to the significantly increased speed of the water flowing into the intake. True, there **will** be **periods** when the Intake will be closed and the flow restricted as a result. However there is no mitigation proposed in the ESR and in fact the proponent clearly makes the statement that "**No** mitigation measures possible to protect public safety". As reasonable people we find this comment **reprehensible** and unacceptable. The lives of people are at stake and yet the proponent is ignoring a dangerous situation which will inevitably lead to the death and Injury of swimmers.

In Table 6.1 SREL notes "No mitigation measures possible to protect public safety". The same youths who swim in the basin beside Purk's Place, would be tempted to jump off the **lookout** of the proposed power station into the turbulent tailrace water exiting the power station. The sole mitigation proposed is that posted signs would discourage this behavior, see Section 6.3.1, Figure 6.5. Also moving the fast water which is currently from the south channel 160' closer (which is where the proposed tailrace would be) to the recreation area at the base of the north falls will create **danger** for this important public area, see Section 6.2.2.3 and Figure 6.2b. The proposed safety booms and warning signs will not provide public safety, see Section 6.3.2, Section 6.3.6.1 Appendix B Table 6.1 Effect 6.8.

To us, the proposed mitigation is purely public relations but will not save lives or prevent injury. Not permitting the water speed to increase and not permitting the installation of the entire facility in the first place, will save lives!

On the downstream side of the facility, a **gravel** beach will be replaced by very turbulent water coming directly from the tailrace of the turbine. Presently the gravel beach is used by swimmers and picnickers. If the facility is built, this convenient and safe location will be **gone**. The swimmers will be forced to go elsewhere and the picnickers may leave Bala for other villages or not return to Muskoka at all.



No true measures to protect and provide public safety are being proposed by SREL. The provision of warning signs as explained in Section 6.3.2, Section 6.3.6.1 Appendix B Table B1 Effect 6.8 will not provide any adequate means of public safety. It is much more likely that high chain link fences will have to be installed to keep people out of and way from most of the two sites. At present the public has full access to Burgess Island and to the property adjacent to Purk's Place. With the installation of the intake and the generator facility, SREL's liability insurance will almost assuredly require them to install fencing. Further, It might even be necessary to have the fences topped with barbed Wire as is the practice at The Ragged Rapids facility and others in the Muskoka area.

Navigation

Boating, in its many forms is part of everyday life for residents of Bala. Whether it is on Lake Muskoka or on the Moon River, we use and enjoy our boats.

The development proposed by SREL will:

- Require a longer and more significant log boom adjacent to the North Dam.
- Necessitate the installation of a log boom, location and length yet to be determined, on the downstream side of The Falls.
- Create significant new currents and turbulence on both sides of the North Dam.
- Increase the speed of water flowing into the basin adjacent to Purk's Place.
- Make accessing the portage area on both sides of The Falls considerably more difficult and dangerous due to:
 - Strength and location of the new currents on the Moon River side of The Falls.
 - Canoeists may be forced to re-launch or remove their canoes inside the log boom on the Moon River.
 - Increased water flow, boom location and boom shape on the north side of The Falls.
- Make the distance to portage much longer if the traditional portage sites are deemed too dangerous or are unsuitable for use for other reasons.
- Make it impossible for boaters to reach Purk's Place.

SREL has made no mitigation efforts with regards to these matters except to make offers to the owners Purk's Place. This does show some recognition of the impact of the development but it does nothing to address the broader concerns of the community as a whole.

The Moon River Public Dock is constantly in use by local boaters.



At certain times during ~~the~~ year, accessing the dock is challenging enough without having more water, at higher speeds, being released towards ~~the~~ dock from the tailrace.

No consideration is given to the property owners whose ~~docks~~ are between the Moon River Public Dock and the combined outflow of the North Falls and the generator tailrace. If the log boom has to cross over the outflow of the North Falls at the request of Transport Canada, how will boaters ~~reach~~ their docks? In addition there is the issue of the increased flow, speed and turbulence of the waters on the Moon River at the North Falls location,

Many of these concerns can be applied to the Lake Muskoka side of the North Dam.

The log boom will, of necessity, become much longer, water speeds will increase making it ~~mOre~~ challenging to safely operate boats nears the intake area. Boaters or swimmers frequent this area, will find themselves sucked towards the boom but unable to "self-rescue" should they be unable to overcome the current or encounter mechanical problems with their boats.

On the Moon River side, there may be situations where swimmers and boaters, including canoeists, are inside the log boom despite the warning signs. How might ~~they~~ be rescued?

No mitigation of any of ~~these~~ concerns has been suggested by SREL, Instead, they have advised simply to "~~call~~ the oppn. There are no full-time opp officers station in Bala, there are no permanent rescue craft stationed in Bala by any emergency organization so how would an emergency situation be handled? In summer months, on occasion, boaters are available to help, however outside of the summer, few boats are around and thus immediate responses by rescue organizations ~~will~~ take time and thus, lives will needlessly be placed in jeopardy,

The Muskoka Lake and Moon River sides of the North Dam are a very popular location for scuba clubs and scuba training organizations to visit. Almost every weekend from May through to September these enthusiasts can be found in ~~The~~ Falls area. Yet no provision has ~~been~~ made to mitigate their loss of use and enjoyment of the area.

Economic Impact

No effort has been ~~made~~ to determine the ~~economic~~ impacts of the proposed development.



SREL remains convinced that tourists will still visit Bala to view The Falls. On what information they make this claim we are **unsure**.

During construction we anticipate that:

- There **will** be road closures.
- The Shield parking lot **will** be used as a staging area.
- Bala Falls Road will be partially or completely closed.
- Traffic **flow** on Highway 169 will be restricted.

On the surface **these** may seem to be minor inconveniences. However, when one considers the already fragile state of the local economy, **the** economic impact of these is not rosy.

It is our belief that:

- The summer Farmer's Market will **be** lost forever. Once the participants relocate to other markets outside the Bala area, they likely will not return.
- The Kee will be impacted as their event guests will have few parking spaces available.
- The Cranberry **Festival** will lose the revenue from those vendors normally located in the Shield Parking lot. The vendors may therefore not **attend** future events.
- Businesses on **Bala** Falls Road **will** lose revenue which will be difficult to replace during and post construction periods.
- Local and seasonal residents will suffer from additional unemployment as local businesses downsize or cease to operate.
- There will be severe limitations and restrictions on the snowmobile traffic for during the winter construction periods. This **will** bring lower than usual revenues for those Bala businesses catering to the snowmobile enthusiasts who travel through Bala.
- Fewer tourists will come to Bala.

All of these negative impacts are indicative of the downward spiral that the development will start in motion.

Yes, there will be some local purchases of supplies, food and lodging but there will **be** no **long-term** benefits to **the** Bala community. As a remotely run hydro facility, the gain in employment will be 1 full-time equivalent but that job will not be **located** in Bala, Bala residents will see a decline in employment and business owners will see lower revenues and some, may be forced to close completely.



SREL makes statements about the local labour force and provides estimates on the cost of various construction equipment pieces to be used on site. By their own admission only a few local employees will be hired (only 15 people will be employed on site during construction).

There is no claim about construction equipment being purchased locally and that ultimately will not be their decision but that of whatever general contractor and sub-contractors they hire to undertake construction. It is predictable that the net gain to Bala for all these items will be nothing.

We are therefore requesting that, a complete economic Impact study of this proposed development be undertaken. Furthermore this study should:

- Be carried out at the expense of SREL.
- Be carried out independently of SREL.
- Establish a "bench mark" economic model for pre-construction period Bala.
- Be repeated 1 year after completion of all development work if the project is undertaken.
- Examine all direct, in-direct and induced impacts on the businesses in Bala and area.
- Examine the immediate, short-term and long-term impacts.
- Evaluate and quantify the positive and negative Impacts on:
 - Employment.
 - .. Business income and profitability.
 - Tourism.
- Identify any remedial steps that should be undertaken to restore the economic health of the Bala economy.

In order to guarantee that these studies are done and that compensation, if deemed necessary, is available, we would request that a "surety bond" be required to be posted by SREL. The amount would have to be sufficient to enable completion of the construction project, carry out the second economic impact study and provide a "compensation fund" pool should compensation be required.

Esthetic Appearance

Residents, seasonal cottagers and tourists all enjoy the scenic beauty and charm of Bala. Whether it is the North dam, the South dam, The Falls, the Stone Church or Purk's Place, the location of the proposed development is magnetic for all.

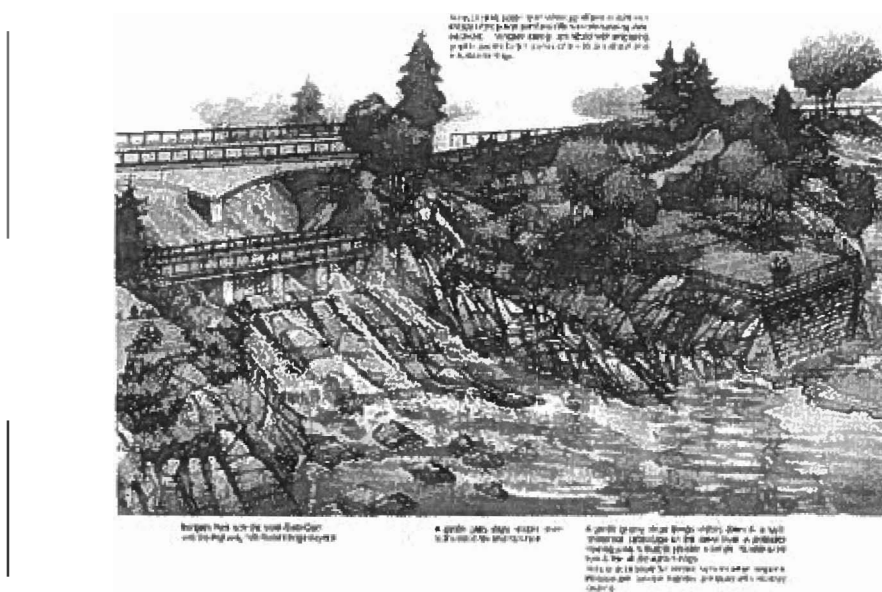


At present, both the site adjacent to Purk's Place and across Highway 169 where the hydro-generator is proposed to be located are typical Muskoka park settings. They both have a variety of trees and other plants that represent a natural vista that we all enjoy.

Construction of the water intake structure and of the power station will change all that.

An 80ft wide concrete water intake will replace the trees next door to Purk's Place. A very large concrete "bunker-like" generator facility will be dug into and protrude out of the top of Burgess Island. In both locations, the current landscapes will be forever and irrevocably changed.

The image that is shown below has been copied from the SREL web site. The captions are those of SREL. It has not been altered in any way.



This is dearly an "altruistic and artistic rendering" of what The Falls and facility area could like if all our fears are wrong,

However once one applies a "sanity check" to this wonderful image what we will actually have to look at will be considerably different than what has been shown.



Why?

- No provision for the equipment service hoist is shown. It will have to be high enough in the air to permit the complete removal of all equipment installed in the generator room.
- No log boom is shown.
- There are no provisions in the facility ceiling for the cooling fan or exhaust fans used to keep the generator and turbines from overheating.
- The trees, though some may be replanted will not be as tall as shown for years. *
- There is no provision for a service driveway or vehicle parking shown.
- The scenic lookout above the tailrace appears to be on top of a brick wall. That "wall" is actually a gate and this gate will have to open. How?
- The lookout is shown atop rock. No rock now exists in this location and the bunker will be built into the existing rock. How then is this lookout wall to be constructed?
- Where will the downstream portage landing location be? None is shown.
- The tourists shown on the lookout are not restricted from accessing the **entire** top surface of the facility. How would that actually **be** possible? There will have to be fences, not shown, restricting ingress by the general public.

* **Note:** The average pine tree grows (gain in height) at the rate of 13 to 24 inches per year while the average oak grows (gain in height) at just over 24 inches per year and a white birch grows (gain in height) at a rate of 13 to 24 inches per year. Therefore, even if more mature trees are replanted, the island may not look like this drawing for years. Overall; it could easily take **2-3** generations to replace the existing trees, if large nursery stock were supplied and would grow.

Noise Emissions

Noise emissions from the site can be categorized as follows:

- Construction noise.
- Operational noise.

The ESR makes no references to the noise associated with the construction of the facility. This omission is significant and highly important to all residents of Bala and extremely important to those who reside within direct **line-of-sight** of the project locations. Anyone living either in line with the intake location or downstream and **in-line** with the generator location will be highly impacted by construction noise.



SREL **does** note possible short-term (and short-sighted) benefits of some construction work, but neglect to mention tack-drilling machines, the blasting cycle (stop all traffic, sound warning **horns**, detonate explosions), the construction crane with a 100' boom, the water pumps running to keep the water out of the 270'-long coffer dam at the base of the north falls and the 160'-long cofferdam in the north channel, the 65'-long steel Bailey bridge (with **8½'-high** sides and 90' of approach ramps to the **4½'- high raised** roadbed), the noise of the rock crusher, the 1,700 dump-truck loads of rock and 445 dump-truck loads of soil to be excavated and *removed*.

The "**Red Leaves**" construction project was highly controversial for many reasons/ one was the constant noise associated with the construction. The constant "background rumble" of heavy equipment was highly irritating for local residents. It is not even addressed by SREL in the ESR. It is therefore appropriate to conclude that no mitigation of this matter is contemplated by SREL.

Currently, the noise calculation (Appendix C1) only includes **two** noise **sources**; the **generator** cooling fan and the step-up transformer magnetostrictive noise. Missing is **the** noise from the turbine/ generator, inverter electronics, and the transformer cooling fan.

The vibration noise of levels that will be attained by the facility are mentioned but dismissed as irrelevant by SREL, there needs to be a vibration analysis included – for the locations on and beside the power **station** where the public will be expecting a "park-like **setting**" (Section 6.3.4),

The noise calculations (Appendix C1) **assume** the area is Class 1 or Class 2 (as defined in the Ministry of the Environment's *Sound Level Limits for Stationary Sources In Class 1 and 2 Areas (Urban)*, which assumes that Bala has a background "urban **hum**" to mask the noise of the power station. Firstly, Bala doesn't have an urban hum (which is defined as the "aggregate sound of many unidentifiable, **mostly** road traffic related noise sources"). Secondly, [if the project proceeds, The Falls would be reduced to a trickle, so there wouldn't be any masking background sound from **The Falls**. Table 7.1. This is a significant delta that has not been addressed in the **report**.

Clearly there is a definite need to have mitigation in relation to all matters related to noise in Bala that will be attributed **to** the proposed development.

Fish Habitat

Recreational fishing plays an important part in the cultural and recreational lives of many Bala area residents and visitors. In fact, not too long ago local angling enthusiasts and conservationists **re-built** some of the spawning beds and **re-stocked** the Moon River with thousands of fish.



In Section 6.2.5.6 there are almost five pages of discussion on *fish entrainment* (that means fish getting sucked into the 45'-high, 31'-wide water intake). They provide **much** discussion on what fish are expected to do, for example "Fish would most likely utilize burst swimming capacity to escape entrainment", "Small fish may not be able to attain sufficient swimming speeds to escape entrainment **into** the intake....", "it is felt that small fish would be **able** to determine the changing flow velocity regime in order to avoid swimming into the higher velocity plumes.

However, if for some reason they do enter the higher plume areas (e.g., **while** escaping predation), they may become entrained through the powerhouse (see mortality discussion below). Trash-racks do provide a visual cue to fish that they are entering the intake, and need to swim to escape". Finally, they conclude "There is not predicted to be any difference in the number of fish that are lost to Lake Muskoka **due** to going through the powerhouse post-construction or going over the North Bala Dam under current conditions. Given this, no additional mitigation is proposed."

That is a significant assumption to make and is not in any way backed up with fact. Currently only the surface water at dams **goes** over The Falls (and fish would just get thrown over the dam. But **the** power station's water intake would be like a **floor-to-ceiling** vacuum cleaner sucking fish from every depth into it. Also, this is the only place in the report where the water speed is examined for safety purposes, SREL does not look at what a safe water speed (at the safety boom, for example) would be for any type of boating activity, nor for swimming. Yet, in **Section** 6.3.6.1 they conclude that the regatta could continue **to** run *because* the water speed at the town docks will not be increased. They neglect to mention that a few feet from the town docks the water speed would certainly be increased (as they show in Figure 6.2c), and this would draw people to the extremely dangerous water intake.

There is inconsistent information given on where the additional fish spawning areas proposed (to make up for **the** areas lost due to lack of water flow) would be, or even any confirmation that they would be adequate (Figure 5.3 and Figure 6.3) and acceptable to the Ministry of Natural Resources and Department of Fisheries and Oceans. This should be resolved before approval is given to proceed.

It is also acknowledged that **there will** be damage to existing spawning beds. What has not been properly addressed is how and when those damages will be repaired and what, if any, the **long-term** impacts **will** be on the **fish** displaced. Also what will the economic impact of this situation?



Construction

In the section of this document related to Noise Emissions the topic of the project construction was touched upon. In that section I wrote the following.

"SREL does note possible short-term (and short-sighted) benefits of some construction work, but neglect to mention rock-drilling machines, the blasting cycle (stop **all** traffic, sound warning horns, detonate explosions), the construction crane with a 100' boom, the water pumps running to keep the water out of the 270'-long coffer dam at the base of the north falls and the **160'-long** cofferdam in the north channel, the 65'-long steel Bailey bridge (With **8½'-high** sides and 90' of approach ramps to the **4½'** high raised roadbed), the noise of the rock crusher, the 1,700 dump-truck loads of rock and 445 dump-truck loads of soil to be excavated and removed.

The "**Red Leaves**" construction project was highly controversial for many reasons, one was the constant noise associated with the construction. The constant "background **rumble**" of heavy equipment was highly irritating for local residents. It is not even addressed by SREL in the ESR. It is therefore appropriate to conclude that no mitigation of this matter is contemplated by SREL."

The ESR does not contain **any timeline** details related to the construction process, schedules or dates. It is silent on all these matters. We can, using a "connect **the dots**" process, understand that the work to cut across Highway 169 will be done in a winter, which one is not **stated** but is likely to be winter 2010-2011.

The other grave matter not addressed in the ESR is the issue of a completion bond. In order to guarantee that the project, if undertaken, is completed our members would request that a "surety bond" be required to be posted by SREL. **The** amount would have to be sufficient to enable completion of the construction project or complete site restoration should failure take place before the job was not at least 75% completed. The "surety **bond**" should also provide a "compensation **fund**" pool should compensation be required.

Conclusion and Final Comments

It is the wish of 88% of the members of the Moon River Property Owners Association that, the proposal by Swift River Energy Limited Partnership to build a hydro-electric power station on the North Bala Falls Dam in Bala be **rejected**.

Burgess Island has been a park and should remain a park for generations into **the** future.



Purk's Place has been a local, family owned and operated business for generations. It should remain so into the future.

The members of the Moon River Property Owners Association also request that Burgess Island be designated as a "conservation reserve" in accordance with the Laws of Ontario and be protected from future development.

So that Swift River Energy Limited Partnership may provide the information needed to demonstrate that the negative environmental effects of the proposed hydro-electric generating station could be adequately mitigated, we request that this project be elevated to require an Individual Environmental Assessment. In addition, we request that the process, by which the full Environmental Assessment is carried out, be fully and totally transparent and further, that a group of community stakeholders become part of a steering committee to oversee, with Swift River Energy Limited Partnership the Environmental Assessment process and the writing of the report.

I would also like to point out that SREL has been less than forthcoming as this process has been unfolding. They have held only two public information meetings, not updated their web site with additional and accurate drawings of what the generator site will look like when finished and, most importantly, been very uncooperative with regards to the process of evaluating the ESR. To bring a highly technical and complex document containing over 600 pages to the public for comment and then to permit only 44 days for those comments to be prepared and submitted is treating us with disdain. Furthermore to have published such a badly worded and confusing "Notice of Completion" advertisement as they did is inexcusable.

Sincerely,

J. A. (Sandy) Currie
President
Moon River Property Owners Association

cc:

Trion Clarke
Senior Environmental Scientist
Hatch Energy
4342 Queen Street, Suite 500
Niagara Falls, Ontario
L2E 7J7

**Comments on the
Environmental Screening Report
for the
North Bala Small Hydro Project**

Technical Report

Table of Contents

1	Introduction	1
1.1	Summary "	1
1.2	Background	2
1.3	This Document	3
1.3.1	Areas Identified "To Report"	3
1.3.2	References	3
1.4	The Town of Bala :	4
2	Detailed Response	5
2.1	Public Safety	5
2.1.1	Water Intake and Upstream	5
2.1.2	Downstream	11
2.1.3	Water Access	13
2.1.4	Portage ,	13
2.1.5	Safety Fencing	15
2.2	Tourism and Local Economy	16
2.2.1	Appearance	16
2.2.2	Recreational Area Impacts	19
2.2.3	Scenic Flow	21
2.2.4	Official Plan	22
2.2.5	Shadow Study	23
2.2.6	Directly Affected Business	23
2.3	Financial Issues	23
2.3.1	Long-term Economic Impact	23
2.4	Construction Concerns	24
2.4.1	Construction Delays	25
2.4.2	Graphical Construction Timeline	25
2.4.3	Performance Bond	26
2.4.4	Utility Relocation	27
2.4.5	Construction Equipment and Materials	28
2.4.6	Bailey Bridge	28
2.4.7	Traffic Signal Light	29
2.5	Noise and Vibration " ",	30
2.5.1	Analysis Ignored Noise Sources	30
2.5.2	Analysis Needs to Use Noise Sources' Frequency Spectra Information	30
2.5.3	Analysis Needs to Use Manufacturer's Noise Source Data	30
2.5.4	The Points of Reception Should Be Class 3 Areas	31
2.5.5	Purk's Place and the Stone Church Should Be Class 3 Areas	32
2.5.6	Include Points of Reception on the Lookout, and on the Stairs Beside.	32
2.5.7	Provide a Vibration Analysis	33

2.6	Fish Habitat	33
2.6.1	Inconsistent Information on Compensation Areas	33
2.6.2	Fish Entrainment	33
2.7	Operation	36
2.7.1	Cooling Water	36
2.7.2	Wash Sink	37
2.7.3	Main Sump	37
2.7.4	Roof Drains	37
2.7.5	Royalty / Lease Payments	38
2.8	Alternative Locations	38
2.9	Process and Community Relations	39
2.9.1	Attempts at Working With the Proponent	39
2.9.2	Apparently Less-than-truthful Information	41
3	Additional Study and Reporting Needed	45
3.1	Summary of Reports Required	45
4	Conclusions and Recommendations	50
4.1	Inadequate Mitigation	50
4.2	Request for Elevation	50
4.3	Terms of Reference	50
5	Figures and Drawings	51

Figures

Figure 1 - Portaging Between Lake Muskoka and the Moon River	14
Figure 2 - Bala Falls and Area	52
Figure 3 - Rendering Deficiencies	53
Figure 4 - Proposed South Channel Alternative	54
Figure 5 - Figure 2.1 from Proponent's Phase I Proposal, July 05 2005	55
Figure 6 - Option 1 as Presented to District Council, October 14, 2008	56

1 Introduction

On behalf of SaveTheBalaFalls.com, we submit these comments on the environmental screening report on the proposed north Bala small hydro project.

Please address any questions or comments on this document through:

Mitchell Shnier
25 Lower Links Road
Toronto, ON M2P 1H5
416 222-1430
Mitchell_Shnier@ieee.org

1.1 Summary

We have carefully read the environmental screening report for the proposed project and have many concerns. In summary these are as follows:

- 1) Public safety, especially for the existing in-water recreational activities both upstream and downstream of the proposed power station. We also have concerns that there would not be an alternative route for the portage between Lake Muskoka and the Moon River, and the safety fencing required.
- 2) Tourism and local economy, particularly due to the majestic Bala Falls becoming just a trickle of water, and the proposed large industrial facility being built directly in view of the most common tourist vantage point. This would remove the draw of tourists to the area, and therefore severely affect the local economy. The construction of the proposed project would make over 500' of precious Muskoka shoreline too dangerous for use - this being virtually all of the publicly-accessible shoreline in the area.
- 3) Financial issues. The economy of the area is completely dependent on tourism, yet the proponent has not done any study of how this loss of shoreline, restriction to in-water recreational activities, and significant visual impact would have on the businesses in the area. The disruption for the construction period would also be devastating, yet no analysis has been presented.
- 4) Construction concerns relating to traffic problems during the construction period and what guarantees would be provided that the project would be completed as proposed, and the site fully-restored, regardless of any difficulty the proponent may encounter, given that the proponent has no operating history, no other facilities or operations, and no assets.
- 5) Noise and vibration have been virtually ignored. The noise calculations only included two of the five sources of noise, assumed there was a background level of urban noise (or possibly noise from the falls - which would no longer exist), and ignored at the two most important locations at the power station which they claim will be a "park-like setting". There was no vibration analysis provided.

- 6) The information on fish habitat jumped to conclusions without supporting information and provided conflicting information on compensation areas.
- 7) The proposed power station would use 288,000 litres of water per day for cooling, yet did not provide any information on how this water (which would be directly discharged to the Moon River) would be tested for contaminant leaks, nor any details on how the drain water from the wash sink (or what chemicals may be used in that sink) or the main sump would be treated - which would also then be discharged to the Moon River.
- 8) We expended significant effort to discuss with the proponent alternatives that would address many of the above significant concerns (such as public safety and appearance), yet they were completely dismissive of this, ignored the information we provided, and refused to seriously compare the costs and difficulties to their own proposal.
- 9) The proponent would not work with the community, but rather appeared to be manipulative. They have provided very little information on their project, and have indicated that they are near to releasing their environmental screening report for a full year, trying to wear us down with remaining on alert for this.

When the document, which is over 600 pages in length was finally released, and without any advance warning, they allowed a token two-week extension to the comment period. Requests for extension were ignored for 23 days until they announced with only 10 days remaining in the comment period that they would not extend the deadline.

Many questions were posed to the proponent during this comment period:

- a) Many were ignored.
- b) Many were responded to on the last day of the comment period (even though these were submitted ten days prior to the deadline).
- c) Requests for updates on whether these questions were received or answers forthcoming were ignored.

Despite this proposed project being located directly in the view of Bala's most significant tourist draw, the proponent refused to provide a realistic rendering of the project, the provided rendering omitting all actual components of the project, such as the door. Incorrect information seems to have been provided about whether the apparently less-desirable Option 1 could have been built entirely on crown land and whether the proponent actually could have built it, given safety issues, or would have built it, given capacity limitations.

1.2 Background

We note that the *Guide to Environmental Assessment Requirements for Electricity Projects* defines "environment" as:

- 1) Air, land or water.
- 2) Plant and animal life, including man.

- 3) Social, economic and cultural conditions that influence the life of man or a community.
- 4) Any building, structure, machine or other device or thing made by man.
- 5) Any solid, liquid, gas, odour, heat, vibration or radiation resulting directly or indirectly from the activities of man.
- 6) Any part or combination of the foregoing and the interrelationships between any two or more of them.

Many of our comments below involve concerns about item 3) above, as they are crucial to the town of Bala, the visitors to it, and the area's residents.

1.3 This Document

This document has been prepared by SaveTheBalaFalls.com, a community group with a deep understanding of the proposed site and how it is used by the public.

The proponent proposes to build hydro-electric generating station at the Bala Falls and has released an environmental screening report as part of the environmental assessment process. We feel that the proponent has not successfully mitigated many negative environmental *effects*, and the purpose of this report is to detail our concerns.

1.3.1 Areas Identified "To Report"

It may be that with additional study and reporting our concerns can be addressed.

To clearly itemize each area requiring the reporting of information which is missing or requires clarification we have used the format:

To Report n: ...

- Where "*n*" is a sequential number to assist in referencing this requirement.
- And "... " is a summary of the task required.

We believe that the areas identified for further reporting:

- 1) Are all significant enough that if they cannot be shown to be adequately mitigated, the project should not proceed as proposed.
- 2) Therefore, this reporting should all be provided during this environmental assessment process, and not left to a future possible detailed design process.

1.3.2 References

Figure referenced followed by "below" refer to Figures in this document.

All other references to Sections, Tables, and Figures refer to those in the subject environmental screening report and its appendices.

1.4 The Town of Bala

For readers not familiar with the proposed project site, we offer some background information.

The proposed project site is shown in Figure 2, below.

Bala is in the Township of Muskoka Lakes, which is in the District Municipality of Muskoka, and is a two-hour drive north of Toronto.

Every proposal for a hydro-electric generating station would negatively affect the sure-to-be-nearby falls - which would no doubt be picturesque and beautiful.

However there are some unique conditions at this particular site which are most significant:

- 1) As acknowledged by the proponent (Sections 2.2.5.10, 6.3.6.1, 7.1.1.4, 7.1.2.2, and 7.1.3.2), there is extensive in-water recreation in the area. This activity is;
 - a) At and upstream of the proposed water intake.
 - b) At and immediately adjacent to where the proposed tailrace would be.

Also, the proposed site and the shoreline is most of the available public space in the area.

So there would be a huge reduction in the possible recreation, and this would result in a significant reduction in tourism.

Also, there are significant public safety issues which cannot be mitigated by safety booms and warning signs.

- 2) Bala is a small town and virtually the entire local economy is based on tourism by repeat visitors - who are drawn to the natural beauty, accessible water, and small-town charm.

Bala is known for the Bala Falls.

The proposed project would eliminate most all the water over the Bala Falls, and would remove most of the publicly-accessible shoreline. This would have a disastrous effect on the tourist draw, which would therefore have a disastrous effect on the local economy.

2 Detailed Response

Below we detail our specific concerns of the information provided in the proponent's environmental screening report.

2.1 Public Safety

While one must always be cautious near water, we have many major concerns that the proposed power station would significantly increase the danger to the public.

The geography of the area, the location of public shoreline, and the development over the years has resulted in certain locations where recreation occurs - and can only occur, as the rest of the shoreline is private.

Since the proposed power station would be located on public lands, there is an unmitigated conflict between the eXisting recreational activities and the proposed power station.

This results in major public safety issues, which the proponent has only offered to resolve with warning signs and safety booms. As described below, these measures are expected to be inadequate.

2.1.1 Water Intake and Upstream

1) Railway Bridge

It is a fact that **for the 100 years since it was built**, warning signs are ignored, and youth jump off the railway bridge into the north channel (see Figure 2, below). The proponent has acknowledged this concern (Section 3.5.1.1).

- a) As shown in Figure 6.5, the area below the railway bridge is behind the safety boom, so youth jumping off the railway bridge would **already be within the restricted area** where the water speed is dangerously fast and towards the huge (31'-wide and 45'-deep) water intake for the proposed power station.
 - Note that this water intake is far more dangerous than a dam, because the flow over a dam would throw one over it.
 - Whereas the tons of water being drawn into the (unattended and remotely-operated) power station would pin one to the trash-rack, where one would likely drown.
- b) Furthermore, and as shown in Figure 6.2c, because the water is shallower below the railway bridge than on either side, the water speed is faster below the railway bridge (With a vortex that would sweep people right to the power station/s extremely dangerous water intake). Therefore, jumping off the railway bridge would be **even more dangerous still**, as it is unlikely one could swim out of this extremely fast water.

The proponent does not report whether, or how long, a person could hold on to the inner "last *resort*", upstream safety boom at this location.

- c) In Section 6.2.5.6 the water speed under the railway bridge is given as 0.78 *mis*, compared to 0.61 *mls* at the proposed water intake (Section 6.3.2.1) - this faster speed because the water is shallower under the railway bridge).

As noted in Section 6.3.2, the proponent addresses this danger **only through warning signs and safety booms** (Section 6.3.1, Figure 6.5), which as mentioned above, are **known to be ineffective** and inadequate, as the are routinely ignored the recreating youth that use the area all summer, every summer.

In Table 6.1, *Summary of Potential Effects and Mitigation During Operation Phase*, the proponent notes (for *Tourism and Recreation*) that there will be a "Reduction in area available for in-water activities in boomed areas" and that "No mitigation measures possible to protect public safety".

That is, the proponent is in effect saying; the power station intake would be dangerous, and you just need to stay away, there is nothing further that can be done!

Unfortunately:

- a) The recreation is important to the area - it is the basis for the entire area's economy.
- b) There is nowhere else to move to, most other land in the area is private.

A conclusion could be reached that if there is no way to make the water intake safe, then the water intake should not be located there.

As a result, **we tried to work with the proponent** to investigate locating the power station in the south channel (see Figure 6, below), as there are no recreation activities near there. But the proponent was very dismissive of this, refusing to enter into interactive dialogue to work out a safe and acceptable solution, or even to seriously investigate it.

To Report 1: Methods to effectively deal with the reality that ill-advised youth jump from the railway bridge, as this existing activity would become life-threateningly dangerous.

To Report 2: The maximum safe water speeds for the various in-water recreation activities and what would be the water speeds along each of the safety booms.

2) In-water Upstream

Appendix D12 has a response from the proponent to a letter they received September 19, 2008 in which the proponent states "Jumping from the railway bridge is unsafe and illegal and there will be a large boom."

That is true, but one must deal with the reality. And we're concerned the "large boom" wouldn't offer adequate safety:

- a) Youth jumping from the railway bridge do so from the north-east side (perhaps because the bridge has no side-walls at the north end, the water is deeper on that side, and their friends can watch them from that side). As shown in Figure 6.2c, the water velocity simulation shows that the water velocity is **greatest at this exact location.**

- b) **This area below the railway bridge is already within the restricted area**, inside of the upstream safety boom. In this area, one would rapidly be swept, by the very fast north plume shown in Figure 6.2c, 140' to the inner "last resort" safety boom.
- By this time, the person would be travelling at the high velocity of the water, and **even if they could grab and hang on** to the inner safety boom (and continue to hang on until properly equipped emergency response personnel could respond), a rescue would be extremely dangerous.
 - The proponent has not provided rescue procedures, even though the proponent's response to a March 12, 2009 communication from Transport Canada indicated this would be provided in the environmental screening report (see Appendix 022, Table 012). All that is offered (Section 5.3.2) is that an Operational Safety Plan would be prepared, but there is no detail provided, such as:
 - A suggestion of what group should have responsibility for rescues.
 - What response time would be needed.
 - How long would a person be able to hold onto the inner safety boom.
 - What training and equipment would be required to effect a rescue.
 - What steps and time would be required to get the power station shut down.

To Report 3: Rescue procedures and responsibilities required for people hanging onto each of the upstream safety booms, and for boats held against the safety booms.

To Report 4: The steps and time required to get the power station shut down.

3) Water Speed at Intake

As stated above, the proponent knows that, due to the many in-water recreation activities at the site of the proposed power station, there is great community and public safety concern about the speed of the water which would occur at the intake and tailrace.

- a) In Section 6.3.2.1 the proponent provides information on these water speeds.
- b) Perhaps to make these numbers seem less alarming, the proponent shows they are "**comparable**" to the current water speed under the railway bridge **during March and April!**

Everyone knows that water speeds near a dam during spring runoff are dangerously fast, and to stay away. Yet there will be these same water speeds just a few metres away, **during the summer recreation period.**

To Report 5: Document how water speeds comparable to those during spring runoff would be safe during the parts of the main summer recreation period.

4) Water Speed Adjacent to Town Docks

- a) As shown in Figure 2.4, currently, most of the water flowing from Lake Muskoka to the Moon River flows through the south channel.

- b) As shown in Figure 6.1/ the construction of the proposed power station would result in most of the water instead flowing through the power station, and therefore, most of the water would be flowing into the north channel.

This brings the faster water **250' closer to the constantly-used town docks.**

It is common for less-experienced boaters to use these docks

- And anyone's boat can stall.
- Or the wind can blow your boat while you are having some difficulty navigating.

In Appendix D12, in response to an e-mail received September 3, 2008, the proponent replies: "The construction and operation of the project are not anticipated to affect velocity at the town docks; *except that the speed of the water will be increased slightly the closer you are to the railway bridge. We will have a boom in this location indicating that people should not be swimming or boating at or under the rail bridge.*"

- a) The point is that the water velocity a few feet from the town docks is **towards** the water intake - and the water intake is extremely dangerous.
- b) The proponent **claims** that the water speed at the town docks above the proposed water intake would be safe.
- Sure, but this is like saying it is safe to play beside a highway. It is, so long as you don't mind that you or your children are just a **few steps from grave danger.**
- c) As an example, if your boat stalled above Niagara Falls, it is rather clear what will happen.
- That is, the water speed doesn't matter, **the point is you're going to end up somewhere very dangerous.**
- d) The proponent's water speed simulation (Sections 6.2.3.1, and 6.2.5.6, and Figure 6.2c) shows that if one overshoots the dock, you'll quickly end up with the current holding your boat against the safety boom.

But:

- a) What if you panic and your canoe tips, perhaps while doing something you've never done before - trying a "self-rescue" by pulling yourself along the safety boom (as is expected).
- b) Have you ever tried paddling a canoe or kayak while held against a safety boom - you can't because the safety boom is on the side on which you need to paddle to keep from turning your bow into it.
- c) What if you can't get your motor boat started again, how do you get back to shore.

So here you are, in the most dangerous place on the lake (and you thought Bala was a safe, relaxed place), the closest you never want to be to a water intake sucking up to **80 tons of water per second** out of the north channel. And you are in a boating situation you've never been in before.

This is grave danger. Everyone occasionally makes a complete mess of docking their boat. Currently this would be a laughing matter, but if the proposed power station is built, it could be a matter of your life.

This isn't friendly to tourists and doesn't encourage return visits.

This change from slow pace, small town, relaxed, to potentially dangerous would significantly and negatively affect the attraction of Bala.

To Report 6: What would the water speed be along the safety boom. Could one push their boat/canoe/kayak along the safety boom by hand.

To Report 7: How would the feeling of imminent danger affect using the town docks for visits to buy goods and services in Bala. And how would this affect the nearby businesses who's customers travel by boat.

5) Intermittent "Ponding" Operation of the Proposed Power Station in the Summer

Please note the following:

- a) As shown in Table 2.1 the water flow through Bala in the summer months is lower than the rest of the year, with monthly flows as little as 4.2 m³/s.
- b) Section 6.2.2.1 notes that to operate, the turbine requires a minimum of 14 m³/s.
- c) Section 9 is entitled *Water Management Plan Amendments* (this refers to a proposed change in the Muskoka River Water Management Plan), and defines a "Best Management Zone".

Detail of this is provided in Section 9.9, and is shown graphically in Figure 9.3. It is also mentioned in Sections 6.2.2.2 and 6.2.5.3.

The above three points show that the proponent would; have motivation to, and would be permitted to, operate the proposed power station as follows:

- a) Rather than always controlling the water level of Lake Muskoka to the Target Operating Level (which an automatic computer-controlled power station would be able to do very well), the proponent could:
 - Stop the water through the power station, allowing the water level in Lake Muskoka build up until the top of the Best Management Zone.
 - Then run water through the power station, at a higher rate (that is, at more than 14 m³/s), until the water level of Lake Muskoka dropped to the bottom of the Best Management Zone.
- b) This "ponding" operation would allow electricity to be generated even when the total water flows running into Lake Muskoka are less than the 14 m³/s needed to run the turbine. Therefore, by operating the power station intermittently, electricity could be generated even during low flow periods.

There are several significant implications of this:

- a) The proponent repeatedly states that the power station would be a run-of-river operation (see Sections 6.1, 6.2.2.1, 6.2.5.4, and 9.7). This means that the volume of water through the turbines would be the same as that which would have run over the dams.

But as described above, during the summer months, they would actually be operating the plant in a ponding mode (which, except for the timing and the degree, is the same as a peaking mode) - even though they deny this in Section 1.5.2.1, and claim such peaking mode could "pose problems related to boating and other aquatic activities").

- b) This proposed Best Management Zone operation would permit fluctuations in the level of Lake Muskoka even though they state in Section 6.1 there would be no such change.
- c) During the main summer recreation period (June to September) the Best Management Zone would allow ponding of Lake Muskoka by 4 cm to 6 cm and intermittent operation of the power station.
- d) Section 9 states that they must provide "the rationale for the proposed amendment and a discussion of its significance").
 - The only rationale offered is "to provide some operational flexibility to the plant in order to deal with changing inflow rates".
 - If that was the reason, why is the largest tolerance band needed when the water flow rates are the lowest ~ when it should be the easiest to regulate the water level exactly to the Target Operating Level.

We look forward to

- e) Such ponding operation would be:
 - Harmful to the fish (as noted in Section 5.2.8.5).
 - Would create danger for nearby in-water recreation since one wouldn't know whether the plant is running or when it might start:
 - One can imagine youth jumping from the railway bridge thinking the plant wasn't running an hour ago and it was safe to jump then.
 - Or one would not be concerned about overshooting docking at the town docks upstream of the power station because last time it wasn't a problem.
 - Or one may be scuba diving off Diver's Point ("safely" outside of the restricted area), and face the grave danger of the flow into the proposed power station creating a deathly underwater current.

As the proponent does not offer any method of informing the public whether the power station is operating or not, the danger created by the water intake would be substantially increased. This is a major threat to public safety, one that doesn't exist now because: '

- The dams truly are "run-of-river" operation.
- During the summer months most all the water flows through the south channel which is far away from recreation activities.

To Report 8: The rationale for requesting the Best Management Zone during the summer months.

To Report 9: Respond to their obligations and provide the rationale for the proposed changes to the Muskoka River Water Management Plan.

To Report 10: Confirmation that the proposed power station would be operated in a true run-of-river mode, with no intermittent operation.

To Report 11: Complete detail on the operating plan for the power station, as it has a major impact on public safety.

6) Upstream Safety Boom Design

The upstream safety boom proposed (Figure 6.5) would not facilitate „self-rescue“, due to the concave shape facing upstream, as follows:

- a) Because being held by the current against the safety boom means that your boat would have the broad side towards the on-coming waves, current, and wind (which is extremely dangerous, especially considering that you're being drawn into the most dangerous place on all of Lake Muskoka - the proposed power station's water intake).
- b) And, to pull your boat by hand along the safety boom would require the very difficult task of pulling your boat upstream, against the current, to get towards the shore.

The safety boom for this configuration should be a "V" shape, with the point far upstream, so that the safety boom would angle towards shore and one would be going downstream to travel along the safety boom to shore.

- a) But this would make it difficult for boaters leaving the town docks, as they would need to immediately turn upstream to avoid hitting the safety boom.
- b) Also, the safety boom would be much longer, visible, and would be in the way of going across to Diver's Point.

To Report 12: An upstream safety boom design, approved by Transport Canada, that facilitates self-rescue, and would not create navigational difficulties for users of the town dock.

2.1.2 Downstream

The following are our public safety concerns for the downstream side of the proposed power station.

- 1) This proposed location for this power station is in a heavily-used in-water recreational area, with many youth in the area during the summer.

As mentioned above, it is known that some youth jump from the railway bridge, even though there are warning signs and that this is known to be dangerous (both because trains go by frequently, and because the water isn't deep enough everywhere).

It can therefore be expected that youth will likely attempt to jump from the lookout over the turbulent water exiting the power station.

- a) The danger of this would be increased due to the proposed fish habitat shoals (Section 5.2.8.5 and Figure 5.3), which would be only 2½' below the surface.
- b) Section 6.3.2 offers that the "design for any viewing deck must discourage diving/jumping".

That is easy to say, but the proponent does not offer any suggestions of how this could be accomplished. This needs to be determined now, as the methods will affect the station's appearance, as well as public safety - two of the most important aspects.

For example, a tall safety fence may be required (perhaps due to advice from legal counsel, or a requirement from an insurance company, or due to a government agency or safety authority).

- As it is, the proponent's fanciful artist's rendering (Figure 6.6) appears to be the "bait" for a "bait and switch" tactic. The rendering looks harmless, until one realizes that the proposed fence **wouldn't even be safe for a curious toddler.**

c) Appendix D1s, page 11 notes that the operator of the proposed power station would be Bracebridge Generation.

We note that all three of the power stations at and above Bracebridge:

- Are operated by Bracebridge Generation.
- Have barbed-wire fencing.

That is, it is reasonable to request that the fencing required be determined now, because barbed-wire fencing could be necessary.

In summary, the proposed power station would create significant new dangers.

To Report 13: The methods to adequately deal with the currently-known new dangers need to be determined and approved as part of the environmental assessment process, not at some later detailed design stage.

2) Fast Water

Currently, during the summer recreation season, the fast water from Bala Bay enters the Moon River from the south channel, which is far away from the recreation area at the base of the north falls.

The proposed power station's tailrace would bring this fast water (as noted in Sections 6.3.2.1, 6.2.2.3 and Figure 6.2b) **160' closer to the recreation area** at the base of north falls, as this is where the tailrace would be (this is confirmed as an issue in Section 1.5.1.1).

Note that the two fatalities at the Bala Falls this past summer were indirectly due to the fast water from the south channel, as a child (safe and wearing a personal flotation device) was carried away by the fast water, prompting her father and uncle (perhaps non-swimmers, perhaps due to the undertow) to attempt to save her.

Bala needs accessible recreation, not; new dangers, safety booms and warning signs (as are described in Sections 6.3.2 and 6.3.6.1, and Appendix B Table B1 Effect 6.8).

To Report 14: It needs to be determined whether the fast water exiting the proposed power station would make recreational activities at the base of the north falls more dangerous.

3) Downstream Safety Boom

Figure 6.5 shows the proposed locations and sizes of the safety booms, and shows that at the Moon River, 27 m of shoreline would be restricted, as delimited by the downstream safety boom.

We understand that Transport Canada has not yet approved the location and sizes of any of the safety booms, so that even more shoreline along the Moon River could be required to be restricted. In fact, the last paragraph in Section 6.3.6.1

provides conflicting information and says that approximately **50 m of shoreline would be restricted south of the north falls.**

Safe public access to the water is required (for example, as a portage launch in the Moon River), any change to this needs to be made known now. Public access was one of the main justifications provided by the proponent for Option 2 being moved to the south (Section 3.5.2 and Appendix 013).

To Report 15: Determine the acceptable (to Transport Canada and any other authorities and organizations) exact location for the downstream safety boom.

2.1.3 Water Access

An extremely important point is whether **water access would be permitted at the south side of the north falls.**

The proponent confirms that a goal of moving the proposed power station to the south was to "preserve traditional access" (Section 3.5.1 and Appendix 020 which is the presentation to District Council October 14, 2008). Section 6.3.6.1 notes "A stair will provide access to the south side of the north falls."

However none of these make it clear whether the public will be able to access the water at this location. An e-mail was sent to the proponent during the comment period requesting clarification on this, but the **proponent did not reply.**

We understand that whether this water access is permitted may depend on Transport Canada's determination of the required downstream safety boom location, and this would be based on water speed, safety and other factors. If so, then the exact required location of this downstream safety boom would need to be finalized as part of the environmental assessment process (as described above).

To Report 16: Whether the public will have access to the shoreline and water in the area between the proposed power station and the north falls.

2.1.4 Portage

As acknowledged in Section 2.2.5.10 and Appendix C7 Section 3.0, there is a centuries-old portage route for travelers between Lake Muskoka and the Moon River.

In Section 6.3.6.1 the proponent notes that this portage route would become unavailable due to the proposed project. It should be noted that:

- 1) A major user of this portage are the many local summer camps, and most of the portagers are therefore now children.
- 2) A portage requires:
 - a) A launch with safe water access at both ends (that is, calm water with a smooth bottom is required).
 - b) A safe passage between (for those carrying canoes, and those carrying heavy packs).

The proponent offers two launch alternatives on Lake Muskoka:

- 1) First they suggest using the town docks. While this indeed could be used for one end of the portage, then let's examine options for the path to the other end of the portage:
 - a) Walking directly across Muskoka Road 169 gets one to the north side of the north falls.
 - This area is **too steep and rocky** for transporting a canoe or large pack, and in any case, offers no safe (for the canoe) water access, as the rocks continue to where the water starts.
 - There is no dock, no smooth bottom, no way to get a canoe into the water. So this is not an option.
 - b) The only other choice is to walking across the highway bridge to get to the south side of the north falls. This would be extremely dangerous with a canoe because:
 - The sidewalk is narrow.
 - Large trucks go by, and this could **blow one's canoe around** (which would be extremely dangerous to the portager, and dangerous to the canoe).
- 2) Their next suggestion is to use Diver's Point.
 - a) This requires canoeing to a narrow landing between two fast water locations, which are the:
 - Proposed and dangerous water intake.
 - The south channel, which also can be carrying a large volume of water.
 - b) This route is an additional 400', and requires walking through a single-lane automobile underpass.
- 3) Strangely, as a third alternative, the proponent then offers that someday there may be a bridge built for snowmobiles (the location is shown in the Figure 1, below).

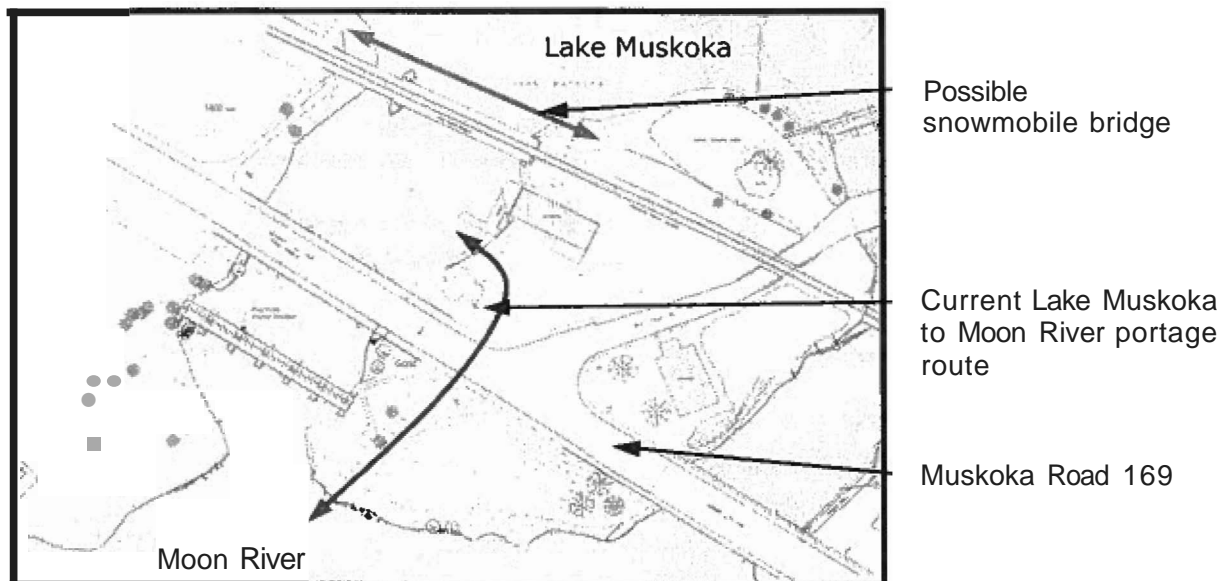


Figure 1 - Portaging Between Lake Muskoka and the Moon River

We note that:

- a) The bridge doesn't exist and there are no budget or plans for such a bridge (though it has been discussed for years).
- b) Even so, the purpose of the bridge would be to get across the north channel. It would connect the town docks to Diver's Point, which are both on Lake Muskoka.

That is, even if the bridge did exist, **it would be of no help in getting one to the Moon River.**

This demonstration of the proponent's lack of knowledge of the area is disturbing.

- 4) But most importantly, the proponent **doesn't offer any suggestions on the launch at the Moon River.**
 - a) As noted above, the north side of the north falls is far too dangerous for carrying a canoe or heavy pack.
 - b) The proponent has not stated what the landscaping of the south side of the north falls would be, but have suggested stairs, which may be acceptable. But it is not known what the entry at the water would be (or whether such access would be allowed).

If allowed, the launch would be adjacent to the turbulent water exiting the power station's tailrace, and would be extremely dangerous if the wind blew one's canoe towards it.

To Report 17: A safe (for both portager and canoe) portage route between Lake Muskoka and the Moon River.

2.1.5 Safety Fencing

Safety fencing would be required at least for the following locations:

- 1) Around the top of three sides of the proposed power station
- 2) Along the top of the water intake.
- 3) Along the top of the driveway retaining wall.

These locations are all **very visible to the public, and no details have been provided** of the minimum required heights, maximum openings or other construction details.

Given the current uses of the area, the safety requirements for such public locations, the requirements of government agencies, local authorities, and others (such as insurance companies and building codes), the height and design requirements of this very visible fencing needs to be determined and presented.

To Report 18: Determine, describe, and provide views of the proposed power station, water intake, and driveway retaining wall, showing the minimum safety fencing required.

2.2 Tourism and Local Economy

2.2.1 Appearance

Because the proposed power station would be right at, and directly in view of those visiting Bala's main attraction - the Bala Falls, the appearance of the proposed power station is vitally important. We have several concerns.

1) Power Station Elevation Drawings

As shown in Figures 5.1 and 5.2, the proposed power station would be a large concrete building - 110' in length, 33' wide, and two storeys in height. However, at the proponent's most recent public information centre (August 2008), they stated (in bold print) "the power station will be virtually invisible" (Appendix 015, page 4).

- a) We note the crucial view up the Moon River would be the face of this structure, which would be a wall right at the waterfront, which is 33'-wide, and rising more than 18' above the Moon River. This is not "virtually invisible".
- b) Most visitors view the north falls from the park to the north of the falls. From this perspective, the view of the side of the power station is that it would rise 18' above the Moon River. This is not "virtually invisible".
- c) In addition there would be a fence around the top, and an entrance-way to the facility that rises higher still (Figure 5.1 shows the entrance-way to rise 11' higher than the rest of the structure). This is not "virtually invisible".

And in Section 6.3.5.3 the proponent claims "virtually all station facilities below grade". This claim is, at least, deceptive to the general public.

In a widely-distributed flyer *Trying to Set the Record Straight* (October 2008), the proponent stated that the power station would be "tucked into a valley". Given that:

- a) There is no valley at the proposed location.
- b) The power station will rise 18' above the Moon River, with the north side fully exposed to the view from the popular vantage point to the north. The only option seems to be that blasted rocks will be piled up this north side to cover the concrete wall (as stated in Section 5.2.1).
- c) The proponent will need to pile blasted rocks (as stated in Section 5.2.1) and dirt up to the top on the south side to form a driveway.

It would appear the public is being misled by both this "information" provided by the proponent, and this would be reinforced by the artist's rendering (Figure 6.6) which the proponent has been widely circulating - it is on the project's website home page (<http://balafalls.ca/project.htm>), it was included in the proponent's presentation to the District Municipality of Muskoka's Council meeting October 14, 2008, and it has been the only visual **representation** of the project provided by the proponent for over a year.

Correct plan and elevation drawings are required of any builder before approval is given to proceed. Given that this comment period is the community's only certain

opportunity to have its input received, drawings are required as part of this environmental screening process.

In Appendix D12 it is noted in response to an April 13, 2009 letter from the Moon River Property Owners Association that "Ideas are still being considered as to how to best 'hide' the downstream face." It has been over half a year since then, surely enough time considering the importance of this issue to the public. We are not interested in landscaping, we need to know what would be under the landscaping.

To Report 19: Elevation side-view drawings of all sides of the proposed power station, including any fencing required.

2) Water Intake

- a) From the bridge over the north channel, and from the town docks, the view of the power station's water intake would be an **81'-wide concrete structure, rising 8' above the water - with a safety fence along the top.**

Considering the extreme danger of the water intakes, this safety fence would need to be at least 6'-high, meaning that the intake would rise a total of 14' above the water. Hardly something that would reinforce the charming and quaint appeal to visitors.

- b) Having an 81'-wide concrete water intake with fencing (even if a few bushes were planted in front) located directly adjacent to Purk's Place and the Stone Church would forever **ruin the small-town look and charm** of this important part of Bala's centre and feature attraction (Section 6.3.6.1 and Figure 6.3).

To Report 20: Renderings, to scale, of the water intake as viewed from the town dock, and from the intersection of Muskoka Road 169 and Bala Falls Road.

3) Site Restoration.

The proponent's suggestion of **artificial landscaping** on top of their concrete power station wouldn't be of interest to potential tourists as people can see that type of gardening over the **concrete underground parking garages at condominiums in Toronto**. People are drawn to Bala to experience the natural beauty of the Bala Falls and the solid bedrock of the Canadian Shield (Section 6.3.1).

To Report 21: Detailed descriptions and sketches of what could be done to restore the natural beauty, Muskoka bedrock, and mature trees of this focus of tourism.

4) Artists' Rendering

This comment period is basically asking the community whether there are any significant environmental concerns which need to be addressed before the proponent receives approval to proceed.

To Bala, the economy completely depends on seasonal residents and tourism. And being the main tourist attraction in Bala, the appearance of the Bala Falls area is significant to this environmental screening process. It is therefore important that the proponent provide a complete rendering. We understand this would not be final

until detailed design is complete, but at this time a complete rendering is possible and required.

- Note that we are referring to the required components of the power station, not the landscaping.
- **We have requested this from the proponent for over a year.** Figure 3, below details some of the deficiencies of the proponent's Figure 6.6.

Specifically, the rendering should include the following:

- a) A correctly-scaled drawing of the structure, as the rendering in Figure 6.6 is grossly distorted.
- b) The entrance door and whether it would be a typical single-person door, or would be a larger garage-type door.
- c) The size of the entrance-way which would be above-grade at the driveway level.
- d) Is a second door required, and if so, where would this be.
- e) The hoisting mechanisms for the intake gates and the tailrace gates.
- f) The ventilation intakes and exhausts.
- g) The emergency back-up generator's diesel engine air intake and exhaust.
- h) The works yard mentioned in Section 1.2.4 (it is not clear whether this is required only during construction).
- i) Artificial landscaping above the facility would require a retaining wall around the top of the structure to retain the required earth. This proposed power station structure would then need to be perhaps 2' higher still, and this needs to be included in the rendering.
- j) Drains will be required for the roof, and the piping to discharge this to the river need to be shown.
- k) Where the intake gates would be stored when not used for plant dewatering (these are mentioned in Section 1.5.1.2).
- l) The height (above the Moon River) and length of the driveway retaining wall (which would be facing the Moon River).
- m) The vehicle guardrail required along the top of the driveway retaining wall.
- n) Any windows required (so an Operator would be able to see results of operational changes).
- o) Exterior cameras required to facilitate remote operation, and any lighting required for these.
- p) Telecommunication lines, power lines (as used for powering plant machinery), and any other above-grade utility services, along with any exterior demarcation, disconnect, or metering enclosures.
- q) It appears that the 44 kV power line would not be below grade where it exits the proposed power station, if so, this should be shown as well.
- r) The 44 kV cable and protective cover running up the utility pole.
- s) The ground-level handle, connecting lever, and grounding mechanism for the utility pole mounted high-voltage disconnect switch.

- t) The cover hatches and any method needed to keep them water-tight, and the hoist mechanism needed to remove these when service access is required.

We need to know these important details for this very visible and high-profile structure now as part of this part of the environmental assessment process, not at some future detailed design stage.

The Ministry of Tourism notes in their *Ontario Tourism Strategy* (http://www.tourism.gov.on.ca/english/tourism_strategy/ont_tourism_strategy-e.pdf) that "Tourist destinations will be identified based on natural tourism assets, recognized geographical icons".

- That is, it is the natural beauty of Bala and the majesty of the Bala Falls that is crucial. The proponent needs to provide the "full picture" so the entire environmental impact can be comprehended by the public.

To Report 22: Complete renderings of the proposed facilities.

2.2.2 Recreational Area Impacts

The Bala Falls is the focus of summer recreation activities in Bala. Restrictions to the activities would have significant tourism, and therefore economic impacts. Our concerns include the following:

1) Shoreline

As noted in Section 6.3.6.1, approximately **500'** (11) of publicly-accessible shoreline would become "restricted" - which means it would be **too dangerous for public access** or use.

- a) The proponent notes *"However, there will be an abundance of shoreline in the vicinity of the project"*.
- There are very few areas in Bala which provide public access to the water, as most of the shoreline is private. There may be an abundance of shoreline in the vicinity, but it is **not available to the public**, so the proponent makes a completely false statement.
 - The loss of this public shoreline would be an irreversible, completely negative, and an unmitigated disaster. And this combined with the majestic Bala Falls becoming a trickle would permanently **remove the main reasons people are drawn to Bala and return year after year.**
- b) In addition, Section 6.3.6.1 notes that the shoreline south of the power station would have "reduced access". Given that this shoreline would be bounded by a 15'-high retaining wall to the east, the steep rocks up to the 15'-high power station on the north, and water on the other two sides, it would appear to be inaccessible, resulting in an additional 125' (for a total of 625') of prime Muskoka shoreline becoming inaccessible (this is currently a popular location for fishing, as it is adjacent to the fast water from the south channel).

The Ministry of Tourism recently completed a competitiveness study, entitled *Discovering Ontario, A Report on the Future of Tourism* (www.tourism.gov.on.ca/english/competitivenessjreport_en.pdf). This resulted in 20 recommendations (www.tourism.gov.on.ca/english/competitivenessjreport.htm). and

recommendation IV 3 states; "FOCUS ON OUR UNIQUE PRODUCTS: Ontario should focus on the unique product offerings of regions including natural experiences and our great water assets as well as niche tourism experiences such as, sports, cultural, culinary, eco and agricultural tourism."

- That is, it is the natural beauty and access to water that is key. Taking away hundreds of feet of public shoreline goes against this.

To Report 23: The impact on tourism, and on the local economy as a result of the loss of publically-accessible shoreline.

2) In-water Recreation Areas

Figure 6.5 shows that over 5,000 m² of in-water recreational area would become "restricted", being too dangerous for public use.

- a) Of course, there is much water in the area, but this proposed restricted area is unique in that there is adjacent publically-accessible shoreline. To go scuba diving, **people need to get to the water**. To launch one's kayak, you need to get to the water. So the loss of this publically-accessible in-water recreational area would be an irreversible change.
- b) The proponent does not provide the water speed at the upstream safety boom, nor do they mention what activities would be safe immediately outside of this restricted area. For example, the south end of the upstream safety boom is anchored at Diver's Point - so called because it is a popular location for scuba diving. Would scuba diving at this location, which is just upstream of the safety boom be safe.
- c) Strangely, in Section 6.2.5.6 there is huge detail provided on fish "burst swimming capacity", "critical swimming speeds", and "burst swimming capacity". However, there is no such attempt to indicate what water speeds would be safe for boating, swimming, or other in-water recreation activities. Nonetheless, in Section 6.3.6.1 the proponent concludes that the annual regatta could continue to run because the water speed at the town docks will not be increased.
 - Note that many regatta activities finish at the town dock, which is shown in Figure 6.2c to be very close to a fast plume of water that leads directly into the proposed power station's water intake.
 - Note that many regatta activities involve:
 - Swimming.
 - Races where children "paddle" a canoe using their hands instead of paddles.
 - Small boats (for safety supervision) puttering along the mouth of the north channel.
- d) In Section 6.2.5.6 it is noted that the simulation tool used to model the water velocities **only calculates the surface velocities and that the velocities below the surface (where one would scuba dive) could be higher**. This creates an unknown increase in the danger to scuba diving and other in-water recreational activities.
- e) On this topic of loss of recreational areas, Section 6.3.6.1 notes: "The effect of operation of the project on tourism and recreational activities is a reduction in area available for in-water activities within boomed areas. No

mitigation measures are proposed given that areas of increased water flow (at the intake and tailrace channels) are no longer available for public use due to public safety consideration./I

This isn't just a reduction in area available, it is **an elimination of safe recreation that cannot just be carried out in another location.**

This would **remove the attraction for tourists to visit, and this would have a significant long-term, irreversible negative effect on the local economy.**

Therefore, an economic impact study is needed to quantify the effect of this unmitigated loss of prime in-water recreational area.

To Report 24: The water speeds along the upstream safety boom, both at the surface and at depths used by scuba divers.

To Report 25: An update to Figure 6.5 to show areas unsafe for in-water recreational activities, such as scuba diving.

To Report 26: Examining each regatta participant and race official activity, and the in-water locations of these to itemize and assess any added risk for each.

To Report 27: The impact on tourism, and therefore on the local economy as a result of the loss of this in-water recreational area.

2.2.3 Scenic Flow

Bala is known for the Bala Falls.

Yet the proponent would reduce the flows over the north and south falls to the minimums that occur in the driest of summers, and set this to be the maximum year-round.

While the proponent acknowledges the scenic value of the water over the north and south falls, (Section 6.3.5.1 and Table 6.2), they have not attempted to involve the community in determining what level of scenic flow would be acceptable to the visiting public.

- 1) In Section 6.3.5.2 the proponent proposes 2 m³/s of scenic flow over the south dam.
 - a) This 2 m³/s would only be from the May 24th long weekend to the weekend after Thanksgiving.
 - b) They do **not provide any justification** why they feel this would be adequate to continue to draw tourists to Bala.
 - c) This is a rather token gesture given the importance of the issue. Note that consideration for scenic flow was included as a resolution by the Township of Muskoka Lakes (Section 2.2.3.3).
- 2) In Table 6.1, *Aesthetics - Flow over Bala Falls*, the proponent only offers leakage flow, no scenic flow at all. In fact **they state "No mitigation possible". Well, of course it is possible**, It is just the proponent is being greedy and refuses to consider the needs of the community, tourism, and the economy.

- 3) The proponent notes (Sections 6.2.2.1, 6.3.5.1, and Section 9.9) that the flow over the north dam and over the north falls is required to be a minimum of 1 m³/s (the assumed leakage between the stop-logs).
 - a) However, for **many years prior to this past summer, an entire stop-log was missing** (from the north-most sluice) so that the north falls were noticeable. The north falls were so inadequate this past summer that one could almost walk across them without getting one's shoes wet. As the MNR notes 1 m³/s is the leakage flow, not the scenic flow. A public consultation is required to determine the required scenic flow.
 - b) The Muskoka River Water Management Plan notes that the 1 m³/s leakage flow is the minimum during the summer low-flow season to ensure that water does not become stagnant. That is, it can be increased during summers with higher rainfall.

The proponent is considering 1 m³/s to be a maximum flow, which basically enforces drought conditions year-round.
- 4) The minutes from the proponent's January 12, 2009 meeting with the Muskoka Lakes Association note Question 3 included: "... what are SREL's plan to maintain 'Scenic Flow'...", and the response included: "SREL plans to ask for public consultation on this issue. They have, in the past and with other similar projects, taken pictures of water flow at key times during the year and then **explored with the local residents** the most appropriate level. It is our understanding that SREL will follow the same procedures in Bala."
 - There has been **no such public consultation**, nor have the public been offered pictures or any interaction with the proponent on this issue.

To Report 28: A process to provide information to, and to interactively communicate with, the public and those knowledgeable in this issue to determine what level of scenic flow would be required at the north falls and for the south channel, so that the BaJa Falls and south channel would continue to be a tourist draw.

2.2.4 Official Plan

The District Municipality of Muskoka's Official Plan has many goals which are contrary to this project as currently proposed. For example (the paragraph references are to those in the Official Plan:

B.1 c) Tourism and recreational opportunities will be enhanced

- Making over 500' of shoreline too dangerous for public access, and reducing the flow over the north and south dams year-round to what happens during the driest days of the year can't enhance anything.

B.5 To manage land use and development in a way that maintains the quality of the natural and cultural heritage of Muskoka

- There's nothing natural about constructing a 33'-wide concrete structure that will rise 18' above the Moon River.

B.6 To maintain the character and integrity of communities in Muskoka

- Constructing an 81'-wide concrete intake directly at the front door of the historic Purk's Place and Stone Church buildings would completely ruin the charm of the area.

To Report 29: How the proposed project can be justified in light of the District Municipality of Muskoka's Official Plan

2.2.5 Shadow Study

As the proposed power station would rise at least 18' above the Moon River, it would cast a shadow over the north falls.

This would be unnatural and the extent of this should be reported for various times of the day, and for various months of the year.

To Report 30: The extent of the shadow from the proposed power station, at various times of the day, and for various months of the year.

2.2.6 Directly Affected Business

The proposed power station would require that the docks at Purk's Place be removed, this would prevent Purk's Place from renting out boats. There are **no other places to rent boats in Baja**, so an alternate method of providing this service would be needed.

To Report 31: An alternative method to provide a rental boat service in Baja.

2.3 Financial Issues

The impact of the above recreation, appearance, and tourism issues will ultimately be to the local economy. Our concerns include the following.

2.3.1 Long-term Economic Impact

Section 6.3.7 and Table 6.1, *Summary of Potential Effects and Mitigation During Operation Phase* states (for *Employment and Economic Opportunities*) that mitigation is not required as there would be a net positive effect due to the one person required to operate the power station.

- 1) This is an extremely narrow view, which ignores the likely impact the proposed project would have on the area's businesses.

The proponent offers some historical tourism and demographic statistics in Section 2.2.5, however there is **no study of the long-term economic impacts** due to the negative environmental affects of this project, such as:

- a) The reduction in available recreation areas.
- b) The loss of hundreds of feet of publically-accessible shoreline.
- c) The loss of the small-town charm of area at Bala Falls Road.
- d) The loss of the natural beauty of Burgess Island, replacing it with a concrete cube with blasted rocks piled up the sides.

e) The loss of the portage route.

To Report 32: An economic impact study to examine and report on the long-term effects on the area's businesses due to the issues such as those detailed above.

2) Directly Affected Businesses and Residence

a) During the IS-month construction period, there would be many negative impacts to:

- Purk's Place.
- The summer business run from the Stone Church.
- The owner of the Stone Church, who uses it as a residence year-round.

These impacts include:

- Loss of parking facilities.
- Blasting.
- Operation of heavy construction equipment.
- Construction fencing, storage of construction materials, construction trailers and toilets located directly at their front doors.
- Loss of vehicle access (Figure 5.4 indicates the owner of the Stone Church couldn't even use his own driveway).
- A snowmobile route along a narrow path right at the front door.

b) During operation, there would be many negative impacts (Sections 6.3.1, 6.3.6.1, and 6.3.7.1), such as:

- An SI'-wide concrete water intake (complete with tall safety fence atop) directly outside their front doors.
- Loss of parking.
- Loss of Purk's Place docks.
- The noise from the proposed power station's exhaust fans would be directed at them (Section 6.3.4).

To Report 33: Whether these businesses could survive the construction period (including considering that the construction period could be extended, so this period could be more than one summer).

To Report 34: Whether the construction disruption to the residence would be acceptable.

To Report 35: Whether these businesses could survive in the longer-term.

To Report 36: The longer-term impact on the residence's property value.

2.4 Construction Concerns

As described in Section 5, this proposed construction project would be very disruptive to the tourism and economy.

2.4.1 Construction Delays

In Section 5.1 the proponent estimates that the construction is expected to require approximately 18 months and span only a single summer tourist season.

However construction projects are often completed much later than expected. Indeed, this proposed project is **already 12 months later than the proponent expected just 18 months ago** (Appendix 015, page 10).

In addition, for this particular project, there are a great many seasonal timing restrictions, such as:

- 1) Blasting cannot occur from April 1 to July 15 (Section 5.2.7.2)
- 2) Forest work cannot occur from May 24 to July 31 (Section 5.2.10).
- 3) Wetland work cannot occur from May 16 to July 23 (Section 5.2.10).

These factors, along with the significant disruption the proposed construction would cause to the summer tourist season, suggests it would be wise to investigate what planning would be needed to accommodate an extended construction period.

To Report 37: Contingency plans if construction is delayed into a second summer.

2.4.2 Graphical Construction Timeline

While the proponent included graphical schedule timelines at both the 2007 (Appendix 05) and 2008 (Appendix 015) public information centres, the few schedule dates provided in the environmental screening report:

- 1) Are scattered throughout (Section 5.2.5 notes the downstream cofferdam, Section 5.2.8.2 notes the upstream cofferdam, Section 5.3.5 notes blasting).
- 2) Are ambiguous ("the Bailey bridge will be installed from November to April" - it is not clear whether this for six months or a year and six months).
- 3) Are wrong (Section 5.2.5 notes the downstream cofferdam would be installed beginning in December 2009).
- 4) And dates are not given for most activities that would be of the highest interest to the public. For example, for what time period would the following occur:
 - a) The traffic light be installed.
 - b) Bala Falls Road would be blocked.
 - c) Rock-drilling machines would operate (the full impact of blasting needs to be noted, including the halting of traffic and the sounding of warning horns, in addition to the actual blasting).
 - d) Trucks hauling blasted rocks and excavated dirt (and where would waiting trucks idle).
 - e) Areas such as Diver's Point, the Precambrian Shield parking lot, and the Dons' Bakery parking lot be used for materials and equipment storage (the proponent has said that the contractor would determine this, but it should

be possible to estimate now how much additional construction staging area would be required).

- f) The construction crane with a 100' boom be installed.
- g) There would be speed reductions due to the construction site or due to the use of the temporary Bailey bridge.
- h) The rock crusher operate (Table 5.4).
- i) Construction may continue on Saturdays.
- j) The water pumps for the cofferdams operate.

It is understood that many of these dates would be determined at a later time, but approximate information needs to be provided now so the public has a full picture of what is being proposed.

To Report 38: A graphical construction time-line showing activities of most interest to the public.

To Report 39: The planned use for the land at Diver's Point during and after the proposed construction work (we understand this is owned by the Ministry of Natural Resources, and the proponent would have full use of the property).

To Report 40: Whether it is expected that any part of the Precambrian Shield parking lot would be used during construction, and if so, what would be located there.

To Report 41: Whether it is expected that any part of the Don's Bakery parking lot would be used during construction, and if so, what would be located there.

2.4.3 Performance Bond

Normally, one withholds some of a contractor's payments to ensure that the job is fully completed satisfactorily.

However, in this case the proponent is receiving other sources of funding, and the District, the Township, the MNR, and the public have no assurance that the job would be completed as proposed and the site fully restored. For example, what if the proponent (or their contractor) does not fully remove the tons of rocks and plastic dumped into the north channel and Moon River as cofferdam material.

It should therefore be required that the proponent post a performance bond to ensure that the project would be finished completely as planned and the site fully restored as required - even if:

- 1) The proponent has a dispute with the contractor or the proponent or contractor goes bankrupt.
- 2) There is a change in the political or business environment, a technical problem encountered, or a problem within the proponent's partnership (note that the proponent's business entity has no operating history or other assets).

Note that the **proponent has no operating history, no other facilities or operations, and no assets.** We have no information that the proponent has any cross-guarantees from any of the principals of the company who may have relevant experience or provided financial information to the MNR.

Also, note that the proponent states that site remediation would be the responsibility of the contractor (Section 10.2), but if the contractor encounters some business difficulty or has a disagreement with the proponent, it should be required that the proponent accept full responsibility for any commitments made by their contractor. This is especially true because the contractor would be "once removed" from any responsibility to the stakeholders.

The proponent has only offered "verbal assurance" that they could and fully intend to finish the project, and that they have provided "firm evidence of their ability to finance the proposed development" to the MNR (Appendix 023). The public has no knowledge of this evidence or assurance of its adequacy. Yet the public would need to live with any bad outcomes.

We feel it is absolutely necessary that the proponent **guarantee** (that means, with pledged collateral) that the project would be completely finished, to the satisfaction of the Township, District, and MNR.

As it is, the proponent could just walk away from the construction site. **This has recently happened for two very prominent sites in Port Carling.** Except in this case we could be left with a 50'-deep trench across the highway, tons of rock and plastic dumped into the Moon River, and all the trees on Burgess Island cut down. Anything could happen. There isn't even any commitment from the proponent on what landscaping would be done, so how could anyone even hold them to a commitment they didn't make.

The District has only offered that they may ask for some form of assurance of completion at a later date, when application to perform applicable work is received. However, it would be better to ensure that we and the proponent know in advance what assurances would be acceptable to both the proponent and the stakeholders, rather than leaving this to be negotiated later.

To Report 42: The financial assurances required by the stakeholders to ensure all work will be completed as planned, and whether this would be acceptable to the proponent.

2.4.4 Utility Relocation

Section 2.2.7.2 notes that there is a municipal water main and two sewer lines that cross the north channel (Figure 2.12). These are substantial in size as they service all the residences and businesses south of the proposed site.

These would need to be relocated, but alternate paths are not proposed. We understand an alternate path would need to be determined through discussion with Public Works staff at the District.

Since this relocation could affect the environment, safety, views, and would also be disruptive (for example, municipal fire-fighting capability could be temporarily affected), the proposed routes and cut-over plans need to be made known.

For example, would there need to be a two-stage cut-over, where initially a temporary route would be used to allow construction to proceed, then a final cut-over once the permanent pipes are installed.

To Report 43: Through discussion and information exchange with the District, to agree on an alternate path for the utility pipes which would need to be relocated as a result of this proposed project, and to document this.

To Report 44: To work out with the District a cut-over plan and document this so the public can know the number and duration of disruption to their municipal water supply, sewage service, and other impacts, such as a temporary impairment to fire fighting capability.

2.4.5 Construction Equipment and Materials

Figure 5.4 shows the area between Purk's Place and the Stone Church where construction equipment and materials would be stored.

The proponent indicates that Diver's Point would also be available to them, at least during the construction period, and construction equipment and materials may be stored there during the construction period. This would further increase the disruption as there wouldn't be any place left untouched during this construction period of at least a year and a half.

There are other nearby areas that the proponent could use for construction staging, including the Precambrian Shield parking lot and the Don's Bakery parking lot.

As all of these are used for other tourism and local business purposes (farmer's market, parking while patronizing stores, recreation ...), if these were to be unavailable for their traditional use, it create further hardship during the construction period.

To Report 45: The area (in addition to that between Purk's Place and the Stone Church, in m²) expected to be needed for construction purposes and for what periods of time.

2.4.6 Bailey Bridge

As described in Section 5.3.4.1, a temporary Bailey bridge will need to be installed during some of the proposed construction activities.

The proponent claims there would be no need for a speed limit reduction over the Bailey bridge or through the construction site - that the speed limit would be 50 km/h (same as for the rest of this section of Muskoka Road 169).

We do not see how is this would be safe, given:

- 1) The bridge requires ramps (30' long on one side, 60' long on the other), as the bridge's roadbed would be 4Vz' above that of the highway (Figure 5.1). This unusual type of bridge would be confusing to drivers, and a reduced speed limit would be prudent.

- 2) The bridge will be in a construction zone, with construction activities, personnel, and equipment on both the east and west sides of the road. We all know that reduced speeds (enforced with fines - which are doubled when workers are present) are required in construction zones.
- 3) There would be a sidewalk on only one side, forcing pedestrians to cross the road (there is currently a sidewalk on both sides of the road).

This is significant as reducing the speed of this very important road could create traffic queues, delays for emergency vehicles, and pollution and noise from idling and accelerating cars and trucks.

To Report 46: The speed limit to be required for the Bailey bridge.

To Report 47: A traffic study to show the maximum traffic queue lengths at the Bailey bridge, both by distance and waiting time.

2.4.7 Traffic Signal Light

As described in Section 5.3.4.2, due to the closure (perhaps for over a year), for this proposed construction, of the north end of Bala Falls Road, a traffic signal light would need to be installed at the intersection of Muskoka Road 169 and the south end of Bala Falls Road.

We have several concerns:

- 1) Currently, there are no traffic lights in Bala (or for many many kilometres in any direction), so this would be surprising to drivers.
- 2) As described above, this traffic delay could create traffic queues, especially during the very busy summer months. This would be compounded by the alternate route along Bala Falls Road being blocked by this proposed construction.
- 3) To traffic southbound on Muskoka Road 169, this signal light would be installed just past a sharp turn in the road, just at the point where there is a railway underpass - the result being that **drivers would not be able to see the traffic light until they are just a few car-lengths from it.**
- 4) Southbound cars already stopped at the traffic signal light would therefore be most unexpected to southbound drivers, and accidents are likely.
- 5) If (as is likely) the traffic signal light does not have the ability to sense the presence of vehicles, the traffic queues and delays would be even greater - as there would frequently be a red light to through traffic even though there is no "side-street demand" from southbound traffic on Bala Falls Road. During the summer, the southbound traffic queue would likely block the intersection at Highway 38.
- 6) In addition to being inconvenient, long queues at the traffic light would delay emergency response vehicles.

To Report 48: How to configure the traffic signal lights to handle expected summer traffic loads, and to not surprise southbound drivers with stopped cars just around the sharp turn.

To Report 49: A traffic study to show the maximum traffic queue lengths (including for Highway 38) at the proposed traffic signal light, both by distance and waiting time.

2.5 Noise and Vibration

The Ministry of the Environment has several publications on noise limits, and the proponent has provided some noise calculations in Appendix C1.

2.5.1 Analysis Ignored Noise Sources

The noise calculations provided **only include two noise sources**, as itemized in Appendix C1, Table 3.1, and these are:

- 1) The air intake and exhaust noise for the generator cooling fan.
- 2) The step-up transformer magnetostrictive noise.

Missing is the noise from the following sources:

- 1) Turbine.
- 2) Generator.
- 3) Inverter electronics.
- 4) Transformer cooling fan.

The proponent has claimed that some noise sources would be "muffled" as they are under water. Rather than dismissing including such sound sources, the correct way to handle these is to include them and apply whatever path attenuation is appropriate for the situation.

To Report 50: The detailed noise calculations, this time including all the noise sources.

2.5.2 Analysis Needs to Use Noise Sources' Frequency Spectra Information

It is important that the noise calculations include the correct frequency spectra for the sources, as these could be quite different (for example, the high-frequency sounds emitted by inverters, compared to the broader frequencies emitted by cooling fans), and this can significantly reduce the masking effect of noise. This is noted in Ministry of the Environment Publication LU-131, *Noise Assessment Criteria in Land Use Planning*, Section 4 (e).

To Report 51: The detailed noise calculations, this time using the correct frequency spectra for all noise sources.

2.5.3 Analysis Needs to Use Manufacturer's Noise Source Data

It is also important for noise calculations to utilize actual manufacturer's data, as estimates may not be accurate:

- 1) The noise information used in the environmental screening report were taken from industry information, not actual manufacturer's data, which may be significantly different.
- 2) We note that Appendix C1, Section 3.2, uses noise *levels* from NEMA TRI-1993, which provides properties of liquid-immersed transformers - but it is proposed that a dry-type transformer would be used for this installation (as noted in Section 6.2.4.3), and dry-type transformers are known to produce greater noise *levels* than oil-filled transformers.

To Report 52: The detailed noise calculations, this time including actual manufacturer's data.

2.5.4 The Points of Reception Should Be Class 3 Areas

We note that Sections 2.1.3 and 6.3.4 consider the area to be Class 2, as defined by the Ministry of the Environment. However, the Ministry of the Environment's Publication NPC-20S *Sound Level Limits for Stationary Sources in Class 1 and 2 Areas (Urban)* states that such areas must *have* a background "urban hum" (from at least the hours of 7:00 am to 7:00 pm) in this case, to mask the noise of the power station.

- 1) Firstly, **Bala doesn't have an urban hum** (which is defined as the "aggregate Sound of many unidentifiable, mostly road traffic related noise sources").
- 2) Note also that MoE Publication NPC-20S (Section 3, definition of "background sound level") **specifically excludes the sound of a train pass-by**. But such train noise is cited as part of the background noise in Appendix C1, Section 1.2.4, and Appendix C1, Table 4.1 (for four of the five receptor locations).
- 3) If the falls created substantial background noise, perhaps it could be argued that this background noise could mask the noise from the proposed power station - in place of the "urban hum" required for a Class 1 or Class 2 area (as proposed in Appendix C1, Section 1.2.4 and Appendix C1, Table 4.1 for the Stone Church). **But most all masking of sound that could be provided by the falls would be eliminated due to the proponent's plan to significantly reduce the flow over the falls** to only 1 m³/s or 2 m³/s.

Therefore it cannot be justified to use either Class 1 or Class 2 areas for determining the noise limits for the proposed power station.

The Ministry of the Environment's Publication NPC-232 *Sound Level Limits for Stationary Sources in Class 3 Areas (Rural)* defines a Class 3 area as follows:

"a rural area with an acoustical environment that is dominated by natural sounds having little or no road traffic, such as the following:

- a) a small community with less than 1000 population;
- b) agricultural area;
- c) a rural recreational area such as a cottage or a resort area; or
- d) a wilderness area."

The population of Bala is less than 1,000, and it is a cottage area, so the noise produced by the power station should be subject to the noise limits for Class 3 areas.

To Report 53: The detailed noise calculations, this time considering the site to be a Class 3 area.

2.5.5 Purk's Place and the Stone Church Should Be Class 3 Areas

In Section 6.3.4 and Table 6.1 it is noted that a mitigation measure for sound levels is "Locating generator cooling fans to ensure exhaust directionality is toward eXisting sources of sound i.e. Highway 169 and the railway line."

- Everyone visiting this site approaches it from the highway, so this noisy and constant blast of hot air would be entirely unacceptable.

Furthermore, Bala's Strategic Plan (*Economic Development Strategic Plan and Urban Design Guidelines, Town of Bala and West Muskoka, Appendix D7, page 2*) notes "tourists focus their activities at the falls and along District Road 169".

- That is, people's **first exposure to Bala is from the highway, and that is where they make their decision whether to stop. It would be unacceptable to have noisy exhaust fans blowing hot air at them from a large industrial facility.**

Finally, the Stone Church is a residence, used year-round by its owner. And there are tourist-oriented businesses operated out of both Purk's Place and the Stone Church. It would be **unacceptable to direct the proposed power station's noisy exhaust fans directly at these two establishments.**

To Report 54: The noise levels at Purk's Place and the Stone Church, given that they should be considered Class 3 areas.

2.5.6 Include Points of Reception on the Lookout, and on the Stairs Beside

We note that the points of reception (locations where the sound levels are checked to conform to Ministry of Environment noise limits) include the nearest businesses and residences (Appendix CI, Table 4.1 and Appendix CI, Figure 3). Given that the proponent claims the power station will be:

- 1) "Parkland" (Sections 6.2.4.2, 6.3.6.1 and Table 6.1).
- 2) A "public park" (Section 6.3.1).
- 3) A "park-like setting" (Section 6.3.5.3 and Table 6.1)

They are setting an expectation that the site not evoke "industrial".

Also, Section 6.3.6.1 notes that there will be a stairway on the north side of the proposed power station, as the **public** is expected to access the south side of the north falls (indeed, this public access between the north falls and the proposed **power station** was one of the main justifications put forth by the proponent for this design alternative – Appendix DiS, page 2, Appendix D16, Appendix D20, page 7, and Table 5.4, Tourism and Recreation).

The following should therefore be **included as points of reception:**

- 1) On the lookout, above the power station.

2) At the north side of the power station, on the stairway.

To Report 55: Noise calculations for points of reception on the lookout, and on the stairs beside the proposed power station.

2.5.7 Provide a Vibration Analysis

For the same reasons as provided above, vibration analysis should also be provided, for a location on the lookout above the power station, and on the stairway beside the power station for the locations on and beside the power station where the public will be expecting a "park-like setting" (Section 6.3.4).

A determination of whether the vibration will be perceptible should be included.

To Report 56: A vibration analysis for points of reception on the lookout, and on the stairs beside the proposed power station.

2.6 Fish Habitat

We have several concerns about the effect of this proposed project on the fish habitat.

2.6.1 Inconsistent Information on Compensation Areas

There is inconsistent information given on where the additional fish spawning areas proposed (to make up for the areas lost due to lack of water flow) would be, or even any confirmation that they would be adequate:

- a) Figure 5.3 and Figure 6.3 provide different locations for the compensation habitat.
- b) Section 5.2.8.4, 5.2.8.5, and 5.2.8.6 provide different information than Section 6.2.5.2 on the size of the compensation areas.

In any case, it is not clear what or if any compensation areas would be acceptable to the Ministry of Natural Resources and Department of Fisheries and Oceans (that is, increased flow over the north falls may be the only acceptable solution).

This should be resolved before approval is given to proceed.

To Report 57: The results of discussions with the appropriate authorities to finalize the need for, location, and design of fish spawning compensation areas.

2.6.2 Fish Entrainment

In Section 6.2.5.6 there are almost five pages provided on *fish entrainment* (that means fish getting sucked into the 45'-high, 31'-wide water intake for the proposed power station).

1) Effect on Lake Muskoka to Losing Fish to the Moon River

The proponent provides much discussion on what fish are expected to do, for example:

- a) "Fish would most likely utilize burst swimming capacity to escape entrainment"
- b) "Small fish may not be able to attain sufficient swimming speeds to escape entrainment into the intake..."
- c) "it is felt that small fish would be able to determine the changing flow velocity regime in order to avoid swimming into the higher velocity plumes. However, if for some reason they do enter the higher plume areas (e.g., while escaping predation), they may become entrained through the powerhouse (see mortality discussion below)"
- d) "trashracks do provide a visual cue to fish that they are entering the intake, and need to swim to escape"

Finally, the proponent concludes this section: "There is not predicted to be any difference in the number of fish that are lost to Lake Muskoka due to going through the powerhouse post-construction or going over the North Bala Dam under current conditions. Given this, no additional mitigation is proposed."

There does not seem to be any justification for this conclusion based on the information provided.

While all the above justifications may mean that some fish would avoid entrainment, obviously the proposed "floor-to-ceiling" water intake (while 79 m³/s of water is flowing into it) is going to be of water is going to entrain more fish than the existing north dam which only has leakage flow. There is no comparison offered of whether there is any fish habitat upstream of the south dam, to enable any comparison of the fish that would be lost down the south channel.

Also, only the surface water at dams goes over the falls, so fish too close to the surface would just get thrown over the dam and not likely encounter any of the horrible deaths itemized in Section 6.2.5.6, *Turbine Mortality*.

But the power station's water intake would be like a floor-to-ceiling vacuum cleaner sucking fish from every depth into it.

It would therefore seem obvious that not only would the proposed power station would suck more fish out of Lake Muskoka (depleting its stocks), but a percentage of those that do get sucked through the turbine would die, further increasing the loss to the fishery.

To Report 58: Quantified and justified statistics on the number of fish which are expected to be entrained, and the impact of this loss to the Lake Muskoka fishery.

2) Effect on the Moon River of More Fish Ending Up in the Moon River

Section 6.2.5.6 quotes some mortality statistics for entrained fish, but does not provide any quantitative information on how many fish would be entrained (the only information provided is that larger fish could swim fast enough to escape entrainment, but there is no information on how many could be expected to actually escape entrainment).

Furthermore, the expected flow velocities given are surface speeds (this is a limitation of the simulation software used by the proponent). Section 6.2.5.6 notes that the mid-depth (which is where the fish would be) water speeds could be

greater, so all the information about fish burst swimming capability being faster than the water velocities may be meaningless.

This is important as the water intake could constantly empty fish out of Lake Muskoka send them into the Moon River, which could have huge impacts on the fish populations of these two distinct water bodies.

This requires further study - both of the percentage of the fish population which would be entrained, and the impact on the ecosystems of this transfer of fish (less the percentage of these fish that would be killed going through the turbine).

To Report 59: Whether transferring more fish from Lake Muskoka to the Moon River would have an undesirable effect on the Moon River fishery.

3) Fast Water in North Channel During More Months of the Year

In Section 6.2.5.6 analysis is presented of the fish impingement (hitting the trash racks), entrainment (getting sucked-in to the turbine) and turbine mortality (fish getting killed as a result of going through the turbine).

A fundamental assumption of this Section is that the water flow into the north channel (whether it goes all over the north dam, or most through the proposed power station) would be 82 m³/s.

While this would be the case when the proposed generation station is operating at capacity - which would be about 50% of the time (as shown in Figures 2.3 and 6.1) - currently this high flow would only occur during a few weeks during the spring freshet (Table 2.3, Figure 2.4).

Therefore the fish entrainment due to the proposed power station would be much greater than stated, because with the proposed power station:

- a) This fast water in the north channel would be occurring for about six months of the year rather than the current one month of the year. That is, the duration of the fast water in the north channel would be six times greater.
- b) The fish habitat in the north channel has never had fast water during most of those months, and may not be able to survive it.

To Report 60: The effect on the fish habitat due to "spring runoff" water velocities in the north channel for six, rather than one, month of the year.

4) Fish Fast Water Avoidance Methods

Section 6.2.5.6 notes that fish have a burst swimming capability and that they could use this to escape the power station's intake. This may be so if the fish attempt to swim off to the side to get away from the faster water.

But the only fast water fish in this area have ever encountered would be that going over the north or south dams - that is, they can escape by swimming down before they get to the dam (and note that they cannot escape by swimming to the side, because the water there would also go over the dam).

- a) But the proposed power station's water intake would be 45' deep - all the way to the bottom. In fact, the north channel is currently a maximum of 22' deep, so would need to be excavated to be twice as deep as it is currently.

- So no matter how much or quickly a fish swims down, it would still get sucked into the generating station's water intake.
 - In fact, because of the slant of the water intake, swimming downwards would bring a fish closer to the intake, to certain entrainment.
- b) Also, the only water that goes over a dam is the water at the surface. So by staying well below the surface, a fish would not encounter fast water at a dam.

However, the proposed water intake would be at every depth of the north channel, so the fish wouldn't have anywhere that is safe from entrainment.

It would therefore appear that this section on fish entrainment requires testing or another means to confirm that all the fish in the north channel wouldn't be drawn into the turbine.

To Report 61: On the expected increase in fish lost to turbine mortality and to the Moon River due to the different velocity characteristics of the proposed power station's water intake compared to a dam.

2.7 Operation

We have several concerns about the proposed operation of the proposed power station.

2.7.1 Cooling Water

Section 6.2.2.4 notes that **288,000 litres per day of water would be used for cooling the plant's machinery**, through heat-exchangers and other means.

It appears that all of these cooling means could develop leaks, so that oil and other contaminants (perhaps in very small quantities) could get into the cooling water.

It is noted that an oil-water separator would be used before this water is discharged into the Moon River, but there is no detail provided of the following:

- 1) How small leaks of contaminants into the cooling water would be detected, how often this testing would be performed, and the maximum time period there could be between water samples taken and results received that there is a leak (and action could be taken to repair the problem).
- 2) What proportion of oil and other contaminants in cooling water would be removed by the oil-water separator.
- 3) The regular maintenance (such as cleaning or filter replacement) required by the oil-water separator.
- 4) The regulatory agency or other approvals or supervision required to ensure continued adequate operation of the oil-water separator.
- 5) This significant environmental operational impact which should be documented in Table 7.1, but is not.

To Report 62: On the methods to be implemented to ensure contaminants are not in the discharged cooling water.

2.1.2 Wash Sink

- 6) Section 6.2.2.4 also notes that there would be a wash sink and the drain water from this would be treated before going to the oil-water separator and discharged into the river.
- a) There is no detail provided on the method or thoroughness of this treatment.
 - b) All other residences and businesses in Bala must use the municipal sewer line if it runs past the property, which is indeed the case here (for example, the Stone Church directly across the road uses the sewer line). Why would this enterprise be exempt from this important pollution-control measure.

To Report 63: On the types of contaminants which could be in the wash sink water and the methods and efficiencies used to remove these.

To Report 64: On whether the District would permit this wash sink water to be treated within the proposed power station rather than by the municipal sewage treatment. And whether each of the lubricants and other liquids and materials used in the power station would be accepted for treatment by the District's facility.

2.1.3 Main Sump

Section 6.2.4.3 notes that the facility will have a **main sump and the water from this will go through an oil-water separator before being discharged into the Moon River.**

The report does not state whether this would be the same oil-separator as is used for the cooling water, or whether this oil-water separator would be able to filter out all of the types of liquids and contaminants that could get into the main sump.

To Report 65: On the types of contaminants which could be in the main sump and the methods and efficiencies used to remove these.

To Report 66: On whether the District would permit the contents of the main sump to be treated within the proposed power station rather than by the municipal sewage treatment.

2.1.4 Roof Drains

If the top of the proposed power station is to be landscaped, then roof drains would be required for rainwater and other precipitation.

It needs to be determined if this water can be discharged directly into the Moon River.

To Report 61: On whether the water from the roof drains can be directly discharged into the Moon River.

2.7.5 Royalty / Lease Payments

The proponent would be permanently and exclusively utilizing over 500' of prime Muskoka shoreline, and using a large tract of prime Muskoka real estate for a profit-oriented enterprise.

There would need to be payments to the District for this use of these public lands, and these negotiations should be completed before approval to proceed so all parties know what the arrangement will be in advance of any commitments.

To Report 68: The business arrangement to be agreed to for use of shoreline and District lands.

2.8 Alternative Locations

We understand generating electrical power from renewable sources is best for the environment and for everyone in Ontario, and we understand that the water flowing from Lake Muskoka to the Moon River is an important energy source.

That is why **we expended significant effort in trying to work with the proponent** on a more benign alternative – locating the proposed power station in the south channel (see Figure 6, below). This could produce the same amount of power, but would have many advantages, including:

- 1) The fast water flowing from Lake Muskoka to the Moon River would stay where it is now - away from recreation activities (both in Bala Bay, and in the Moon River).
- 2) The existing portage would not be affected.
- 3) The power station could be buried into the north end of the Precambrian Shield parking lot:
 - a) This is already loose fill as it was constructed as part of the highway work in the 1960s, so would not require significant blasting (though constructing the penstock would require substantial blasting).
 - b) The tailrace could be constructed to be south of the south channel. As this area isn't natural (it was constructed as part of the highway work), it wouldn't detract from the natural beauty of the area.

In Section 3.5.6.1 (Design B) the proponent has provided some response to this suggestion, however:

- 1) Their **points are just conjecture**, they do not offer any substantiated facts or quantitative comparison that the work or cost for our suggestion would be any more than for the power station they are proposing.

For example, the proponent notes:

- a) That Design B would require blasting near a railway line.
 - But their proposal also involves blasting near the same railway line, and they don't provide a meaningful comparison of the two.
- b) Considerable blasting would be required at the entrance to the south channel.

- l But their proposal requires blasting a SOI-deep trench across the highway, so it isn't clear that Design B is more work or cost.
 - c) Recreation wouldn't be allowed at the south channel.
 - l But there already isn't any recreation at the south channel because everyone knows that is where the dangerous fast water is.
 - d) The power station would need to be built at the south end of Burgess Island.
 - l But we already suggested the north end of the Precambrian Shield parking lot (including forwarding Figure 6, below to them).
 - l They have apparently chosen to ignore this.
- 2) The proponent does not attempt to weigh any of the benefits of constructing a power station in the south channel against the many negative public safety and tourism impacts of their north channel proposal.
- l **The larger picture needs to be examined to determine the best location** for this proposed power station, rather than the proponent's current focus of just trying to justify their proposed location.
- 3) Each of the areas requiring further study, as identified above, need to be compared to the impact if the power station was built in the south channel.
- In addition, detailed cost comparisons need to be prOvided.

To Report 69: An evaluation of the best location for the proposed power station, not just an attempt at justifying the current site being proposed.

2.9 Process and Community Relations

2.9.1 Attempts at Working With the Proponent

We would also like to note that while the proponent claims (Section 3.S) they have met, and perhaps exceeded the requirements for public consultation, this is certainly not the result:

- 1) In over four years of working on this, the proponent has held **only two public information sessions**.
- 2) Most seasonal residents do not receive mail, nor regularly read the newspapers, yet there was **no notice of these public information sessions posted on the community bulletin boards in town, or at the grocery store**. Most people had no idea this project was proceeding, nor of the public information sessions.

The proponent perhaps met the letter of the reqUirement, but not the intent.
- 3) The public information sessions were held on **weekday evenings, when most seasonal residents are not in Bala**.
- 4) We tried repeatedly to meet with the proponent, for example, to discuss our suggested alternative which would have significant safety and other benefits, but were refused.

It was only at the **specific request of a local Councillor** that the proponent finally agreed to meet (initially in a donut shop).

The questions we left with the proponent were not answered until **five months after the meeting**.

- S) Section 6.3.3 of the *Guide to Environmental Assessment Requirements for Electricity Projects* notes that "Proponents are encouraged to circulate a draft of the Environmental Review Report, or relevant sections of the report, to the appropriate agencies and key stakeholders for comment prior to the formal review periods." However, despite repeated requests, the proponent **refused** to provide our community group with any such information.
- 6) We (and several other groups - including Councillor Mary Grady at the October 26, 2009 District Council meeting) asked for an extension to the comment period for this environmental screening report.
- 7) At that District Council meeting the proponent's project manager replied they would extend the deadline if there was "a really good reason". One would think that the difficulty encountered by the general public, who have jobs and other obligations, to respond to a formal document, years in the making, of **over 600 pages** in only 44 days was a good reason.

However, the proponent **waited 23 days**, until November 17 to provide a response. That is, they **said nothing until 34 days into the 44-day comment period** to respond that they would **not** extend the deadline.

This is mean behavior, and shows a complete disrespect for the community the proponent claims to be serving.

Many e-mails were forwarded to the proponent during the comment period.

- a) Often these were not acknowledged until a follow-up phone call or e-mail was sent many days later.
- b) On the crucial last days of the comment period, the replies too even longer:
- E-mail sent November 17, reply received November 26 - which was given as the last day for elevation requests.
 - E-mail sent November 18, reply received November 26 - which was given as the last day for elevation requests.
 - E-mail sent November 19, reply not received.
- c) That is entirely unacceptable that the proponent should provide responses provided on the last day (after a great number of completely confusing statements by the proponent, they agreed to extend this by one day).
- d) The last e-mail was sent a week before the deadline, and no reply was received, even to a subsequent request for an update on when a reply would be forthcoming.
- e) The proponent apologized for "running a bit behind schedule". The proponent exacerbates the problem of the brief comment period allowed by delaying information due to us.
- 8) During the comment period, we e-mailed many questions to the proponent. While the respondent was most cordial and pleasant, the fact is that phone calls and follow-up e-mails were often required to even determine if the questions were

received or when a reply would be forthcoming. Responses included the minimum information possible. Many responses were optimism rather than commitments:

- a) The construction crane is **expected** to be a mobile type rather than requiring a poured concrete foundation.
- b) The speed over the temporary Bailey bridge, which would go through a construction site, and have ramps leading to a roadbed raised 4V2' above the eXisting road would **not require any speed limit reduction** (this seems unsafe and unlikely).
- c) The Bailey bridge is **not intended** to have loose components, so should be qUiet (a commitment to make is qUiet if need be would be more meaningful).
- d) The portage paths are **up to the individuals** (even though there are no safe or workable paths).
- e) The cofferdam water pumps are **anticipated** to be electric.

A final set of questions, some sent ten days before the deadline, never received a response.

This is a process that has not worked.

2.9.2 Apparently Less-than-truthful Information

We have had many difficulties working with information from the' proponent, such as:

- 1) Option 1 Could Not Be Built Entirely on Crown Land
 - a) The proponent clearly stated that their Option 1 (also called Phase I, and Alternative 1) could be built entirely and only on crown land (that is, on land owned by the Ministry of Natural Resources).
 - This is noted in the proponent's presentation to the District Municipality of Muskoka Council on October 14, 2008 (Appendix D20, page 7).
 - This is shown by the last "whereas" premise for the District's resolution of October 14, 2008 (see the last page of Appendix C6), which states "AND WHEREAS a refusal by Muskoka to consider the use of the Muskoka District site as an alternative site **will indirectly result in confirming the Province's selection of the Crown Land** site as the ultimate and preferred site for the facility".
 - The bold print was added to highlight the fact that District Council was being pressured to make this decision in favour of the proponent, otherwise Option 1 would be built.
 - In Appendix D12, Table 07, in response to an earlier letter received October 8, 2008, the proponent notes "We will respect any decision made by the council regarding our request and **will build according to their wishes.**"
 - The proponent had been building this pressure on District Council for some time.

That is, the proponent was quite clear that:

- If the District did not agree to permit the proposed project to use District land (which they call Option 2), then the proponent would proceed to build Option 1.

- And that the proponent had the land and approval from the Ministry of Natural Resources to build Option 1.
- The District Councillors were clearly given the "choice" that if they didn't approve Option 2, then the proponent could and would build Option 1 regardless of anything the Councillors could do.

District Council knew that Option 1 had many undesirable attributes, and that there was significant public opposition to it (this opposition was encouraged by the proponent who heavily publicized Option 2 - for example, see the flyers in Appendix D13 and D16 which were widely-distributed (Section 3.5.2 and 3.5.4).

The disadvantages of Option 1 (all neatly solved by Option 2), included:

- Option 1 had no public access to the south side of the north falls.
- Option 1 was rendered as a tall "concrete bunker" (see Appendix D20, page 7), with no landscaping, and a prominent black railing around the top).

So the Councillors felt they were "choosing the lesser of two evils" and doing the best they could, by supporting Option 2.

- b) But a close examination of the property ownership survey provided in Figure 2.12 and a comparison with the Alternative 1 drawing provided in Appendix A shows that the driveway as well as part of the Option 1 proposed power station itself requires land from the District Municipality of Muskoka.

This changes everything, because the proponent needed District Council approval to build either Option 1 or Option 2.

Furthermore, in their own evaluation of Option 1 (Section 1.5.1.1) the proponent states:

- "The tailrace of the powerhouse would be located in close proximity to the falls which could cause safety issues"
- "Furthermore, the location of the intake would be between the North Bala Dam and the highway bridge. This is not an optimum location from a hydraulic standpoint and head losses would be incurred. Approach area excavations near and below the road bridge to improve the hydraulics would be difficult and could threaten the bridge or dam."

That is, the proponent:

- Could not build Option 1 because the fast water exiting the tailrace would make the recreation area at the base of the north falls too dangerous.
- Would not build Option 1 because:
 - The water intake is too restricted by the shallow water at the north dam, and by the supports for the highway bridge.
 - Blasting to remove these problems would be very expensive or damaging to the north dam and the bridge.

- c) That is:

- Option 1 also needed District approval for their land
 - This is not what the proponent indicated to District.
- The proponent couldn't and wouldn't have built Option 1 anyways, due to intake restrictions and tailrace safety problems
 - This is not what they indicated to the District or the public.

In summary, the District Council's decision was based on incorrect information from the proponent.

2) The Two Orientations of Option 1

The fact that using the proponent's own information (Figure 2.12 and Appendix A), as provided in their environmental screening report shows that Option 1 required District land (and therefore District approval) is significant, since all were led to believe that if the District did not permit their land to be used, the proponent could and would proceed to build Option 1.

It is interesting to note that the drawing provided by the proponent in their July 5, 2005 proposal the Ministry of Natural Resources also shows that District land would be needed. This is shown in Figure 5, below (the drawing has been rotated and cropped to match the orientation of the other drawings).

But what is really interesting is that the Option 1 drawing presented to District Council on October 14, 2008 (Appendix 020, page 8) shows it would fit onto crown land (the drawing from that page is reproduced in Figure 6, below).

When the observation of Option 1 requiring crown land was made as part of a presentation to District Council on October 26, 2009, the proponent replied in a letter dated October 30, 2009:

- a) That the proponent "discussed this matter at some length with him" even though no such discussion took place.
- b) That if the proponent is not allowed to use District land, then the proponent "will update the Option 1 drawings to ensure the structure is fully contained within the crown land boundaries"

It would appear that the proponent's pressure of threatening to proceed building Option 1 is no longer credible, so the threat is now that they would **redraw their picture.**

3) Environmental Impacts Include Economic Impacts

In Appendix D12, Table D6, in response to a letter from the Muskoka Lakes Association dated November 3, 2008, the proponent responds:

"A business economic study is not part of the environmental screening report"

We beg to differ, as the *Guide to Environmental Assessment Requirements for Electricity Projects* clearly states many times that assessing negative environmental effects includes economic impacts. An economic impact study should have been included in the environmental screening report.

4) Fish Will be Entrained

In Appendix D12, Table D6, in response to a letter from the Muskoka Lakes Association dated November 3, 2008, the proponent responds:

"Intake size not finalized until detail design, but will be designed to ensure fish aren't entrained"

As noted in Section 6.2.5.6, the proponent does not provide any information that the water intake is designed so fish won't be entrained. The velocity plumes shown in Figure 6.2c would draw fish to the 31'-wide and 45'-deep water intake. Some

fish would escape, and some would not. It is being less than truthful to say that fish would not be entrained.

5) Invisible - NOT

- a) Appendix 016, *Trying to Set the Record Straight* (this was placed in several local newspapers) states that Option 2 would be "tucked into a valley".
 - There is no valley at the proposed site (see the contour lines, for example in Appendix A, Alternative 1). The proponent is proposing to construct a concrete cube and pile blasted rocks up the sides.
- b) Appendix 015, *Public Information Centre 2008* on page 3 states "Virtually all station facilities will lie invisibly below grade". And on page 4 states (in bold print) "the power station will be virtually invisible".
- c) Appendix 013, *Our New Plan for Bala Falls* states "Virtually all station structures and facilities will be invisible; being either on the river bottom or below grade".

I think most would agree that a concrete structure that rises 18' above the Moon River, and is 33' wide is not invisible. These messages were all communicated the public to prepare District Council for the crucial vote where the proponent needed to get approval to use District land.

- 6) During telephone conversations, the proponent's project manager acknowledged the deficiencies of their artist's rendering and stated that a more accurate drawing would be provided.

This has not happened, the proponent hasn't offered an update to this erroneous Figure 6.6 even though they have had over a full year to do so.

- 7) In Table 6.1, *Surface Water Hydrology*, the proponent states "Minimum continuous flow of 1 m³/s to be passed through each of the North and South Bala Dams at all times - no other mitigation possible due to power diversion".
- That isn't true. Of course they could choose to pass more water over the falls for scenic flow, they are simply being too greedy (or the project can't be adequately justified economically).

- 8) In Section 9.9 a "Best Management Zone" is defined. Even though the proponent **repeatedly states** (Sections 6.1, 6.2.2.1, 6.2.5.4, and 9.7) the proposed power station would be **operated in a run-of-river mode**, and not peaking mode (for example, in Section 1.5.2.1) the described operation is in fact a form of **peaking operation**.

More than this deception, the real problem is the **huge increase in danger** to the public, as in-water recreational activities downstream, and especially upstream would encounter changes in the water flow through the proposed power station. For example, scuba divers upstream of the proposed power station could find themselves in grave danger.

Furthermore they confirm their obligation to explain the rationale for requesting such a change to the Muskoka River Water Management Plan (Section 9), but do not do so.

In summary, we don't feel that the proponent has successfully worked with the community.

3 Additional Study and Reporting Needed

While the proponent's environmental screening report is large, and raises many points, and *offers* many tables of information, a close reading shows that the mitigation offered is entirely inadequate and substantial additional study is required.

3.1 Summary of Reports Required

As detailed above, reports are required on many topics, these are repeated below (followed by the page number on which the detail is provided):

To Report 1:	Methods to effectively deal with the reality that ill-advised youth jump from the railway bridge, as this existing activity would become life-threateningly dangerous	6
To Report 2:	The maximum safe water speeds for the various in-water recreation activities and what would be the water speeds along each of the safety booms	6
To Report 3:	Rescue procedures and responsibilities required for people hanging onto each of the upstream safety booms, and for boats held against the safety booms	7
To Report 4:	The steps and time required to get the power station shut down	7
To Report 5:	Document how water speeds comparable to those during spring runoff would be safe during the parts of the main summer recreation period.	7
To Report 6:	What would the water speed be along the safety boom. Could one push their boat/canoe/kayak along the safety boom by hand.....	9
To Report 7:	How would the feeling of imminent danger affect using the town docks for visits to buy goods and services in Bala. And how would this affect the nearby businesses who's customers travel by boat. .	9
To Report 8:	The rationale for requesting the Best Management Zone during the summer months	10
To Report 9:	Respond to their obligations and prOvide the rationale for the proposed changes to the Muskoka River Water Management Plan.10	
To Report 10:	Confirmation that the proposed power station would be operated in a true run-of-river mode, with no intermittent operation	10
To Report 11:	Complete detail on the operating plan for the power station, as it has a major impact on public safety	10

To Report 12:	An upstream safety boom design, approved by Transport Canada, that facilitates self-rescue, and would not create navigational difficulties for users of the town dock	11
To Report 13:	The methods to adequately deal with the currently-known new dangers need to be determined and approved as part of the environmental assessment process, not at some later detailed design stage	12
To Report 14:	It needs to be determined whether the fast water exiting the proposed power station would make recreational activities at the base of the north falls more dangerous	12
To Report 15:	Determine the acceptable (to Transport Canada and any other authorities and organizations) exact location for the downstream safety boom	13
To Report 16:	Whether the public will have access to the shoreline and water in the area between the proposed power station and the north falls.	13
To Report 17:	A safe (for both portager and canoe) portage route between Lake Muskoka and the Moon River	15
To Report 18:	Determine, describe, and provide views of the proposed power station, water intake, and driveway retaining wall, showing the minimum safety fencing required	15
To Report 19:	Elevation side-view drawings of all sides of the proposed power station, including any fencing required	17
To Report 20:	Renderings, to scale, of the water intake as viewed from the town dock, and from the intersection of Muskoka Road 169 and Bala Falls Road	17
To Report 21:	Detailed descriptions and sketches of what could be done to restore the natural beauty, Muskoka bedrock, and mature trees of this focus of tourism	17
To Report 22:	Complete renderings of the proposed facilities	19
To Report 23:	The impact on tourism, and on the local economy as a result of the loss of publically-accessible shoreline	20
To Report 24:	The water speeds along the upstream safety boom, both at the surface and at depths used by scuba divers	21
To Report 25:	An update to Figure 6.5 to show areas unsafe for in-water recreational activities, such as scuba diving	21
To Report 26:	Examining each regatta participant and race official activity, and the in-water locations of these to itemize and assess any added risk for each	21

To Report 27:	The impact on tourism, and therefore on the local economy as a result of the loss of this in-water recreational area	21
To Report 28:	A process to provide information to, and to interactively communicate with, the public and those knowledgeable in this issue to determine what level of scenic flow would be required at the north falls and for the south channel, so that the Bara Falls and south channel would continue to be a tourist draw	22
To Report 29:	How the proposed project can be justified in light of the District Municipality of Muskoka's Official Plan	23
To Report 30:	The extent of the shadow from the proposed power station, at various times of the day, and for various months of the year	23
To Report 31:	An alternative method to provide a rental boat service in Baja	23
To Report 32:	An economic impact study to examine and report on the long-term <i>effects</i> on the area's businesses due to the issues such as those detailed above	24
To Report 33:	Whether these businesses could survive the construction period (including considering that the construction period could be extended, so this period could be more than one summer)	24
To Report 34:	Whether the construction disruption to the residence would be acceptable	24
To Report 35:	Whether these businesses could survive in the longer-term	24
To Report 36:	The longer-term impact on the residence's property value	24
To Report 37:	Contingency plans if construction is delayed into a second summer.	25
To Report 38:	A graphical construction time-line showing activities of most interest to the public	26
To Report 39:	The planned use for the land at Diver's Point during and after the proposed construction work (we understand this is owned by the Ministry of Natural Resources, and the proponent would have full use of the property)	26
To Report 40:	Whether it is expected that any part of the Precambrian Shield parking lot would be used during construction, and if so, what would be located there	26
To Report 41:	Whether it is expected that any part of the Don's Bakery parking lot would be used during construction, and if so, what would be located there.. , , , 26	
To Report 42:	The financial assurances required by the stakeholders to ensure all work will be completed as planned, and whether this would be acceptable to the proponent	27

To Report 43:	Through discussion and information exchange with the District, to agree on an alternate path for the utility pipes which would need to be relocated as a result of this proposed project, and to document this	28
To Report 44:	To work out with the District a cut-over plan and document this so the public can know the number and duration of disruption to their municipal water supply, sewage service, and other impacts, such as a temporary impairment to fire fighting capability	28
To Report 45:	The area (in addition to that between Purk's Place and the Stone Church, in m ²) expected to be needed for construction purposes and for what periods of time	28
To Report 46:	The speed limit to be reqUired for the Bailey bridge	29
To Report 47:	A traffic study to show the maximum traffic queue lengths at the Bailey bridge, both by distance and waiting time	29
To Report 48:	How to configure the traffic signal lights to handle expected summer traffic loads, and to not surprise southbound drivers with stopped cars just around the sharp turn	29
To Report 49:	A traffic study to show the maximum traffic queue lengths (including for Highway 38) at the proposed traffic signal light, both by distance and waiting time	30
To Report 50:	The detailed noise calculations, this time including all the noise sources	30
To Report 51:	The detailed noise calculations, this time using the correct frequency spectra for all noise sources	30
To Report 52:	The detailed noise calculations, this time including actual manufacturer's data	31
To Report 53:	The detailed noise calculations, this time considering the site to be a Class 3 area	32
To Report 54:	The noise levels at Purk's Place and the Stone Church, given that they should be considered Class 3 areas	32
To Report 55:	Noise calculations for points of reception on the lookout, and on the stairs beside the proposed power station	33
To Report 56:	A vibration analysis for points of reception on the lookout, and on the stairs beside the proposed power station	33
To Report 57:	The results of discussions with the appropriate authorities to finalize the need for, location, and design of fish spawning compensation areas	33

To Report 58:	Quantified and justified statistics on the number of fish which are expected to be entrained, and the impact of this loss to the Lake Muskoka fishery	34
To Report 59:	Whether transferring more fish from Lake Muskoka to the Moon River would have an undesirable effect on the Moon River fishery. "-----"	35
To Report 60:	The effect on the fish habitat due to "spring runoff" water velocities in the north channel for six, rather than one, month of the year..	35
To Report 61:	On the expected increase in fish lost to turbine mortality and to the Moon River due to the different velocity characteristics of the proposed power station's water intake compared to a dam	36
To Report 62:	On the methods to be implemented to ensure contaminants are not in the discharged cooling water	37
To Report 63:	On the types of contaminants which could be in the wash sink water and the methods and efficiencies used to remove these	37
To Report 64:	On whether the District would permit this wash sink water to be treated within the proposed power station rather than by the municipal sewage treatment. And whether each of the lubricants and other liquids and materials used in the power station would be accepted for treatment by the District's facility	37
To Report 65:	On the types of contaminants which could be in the main sump and the methods and efficiencies used to remove these	37
To Report 66:	On whether the District would permit the contents of the main sump to be treated within the proposed power station rather than by the municipal sewage treatment	37
To Report 67:	On whether the water from the roof drains can be directly discharged into the Moon River	37
To Report 68:	The business arrangement to be agreed to for use of shoreline and District lands	38
To Report 69:	An evaluation of the best location for the proposed power station, not just an attempt at justifying the current site being proposed.	39

4 Conclusions and Recommendations

4.1 Inadequate Mitigation

Through countless telephone conversations, e-mails, and information posted at <http://5aveTheBalaFalls.com>, we have tried to work with the proponent to resolve the concerns we have about their proposed project.

As shown by the large number of outstanding issues detailed above, we feel that the proponent has not adequately mitigated many significant negative environmental effects of their proposed project.

4.2 Request for Elevation

50 that the proponent may provide the information needed to demonstrate that the negative environmental effects of the proposed hydro-electric generating station could and would be adequately mitigated, we request that this project be elevated to require an Individual Environmental Assessment.

4.3 Terms of Reference

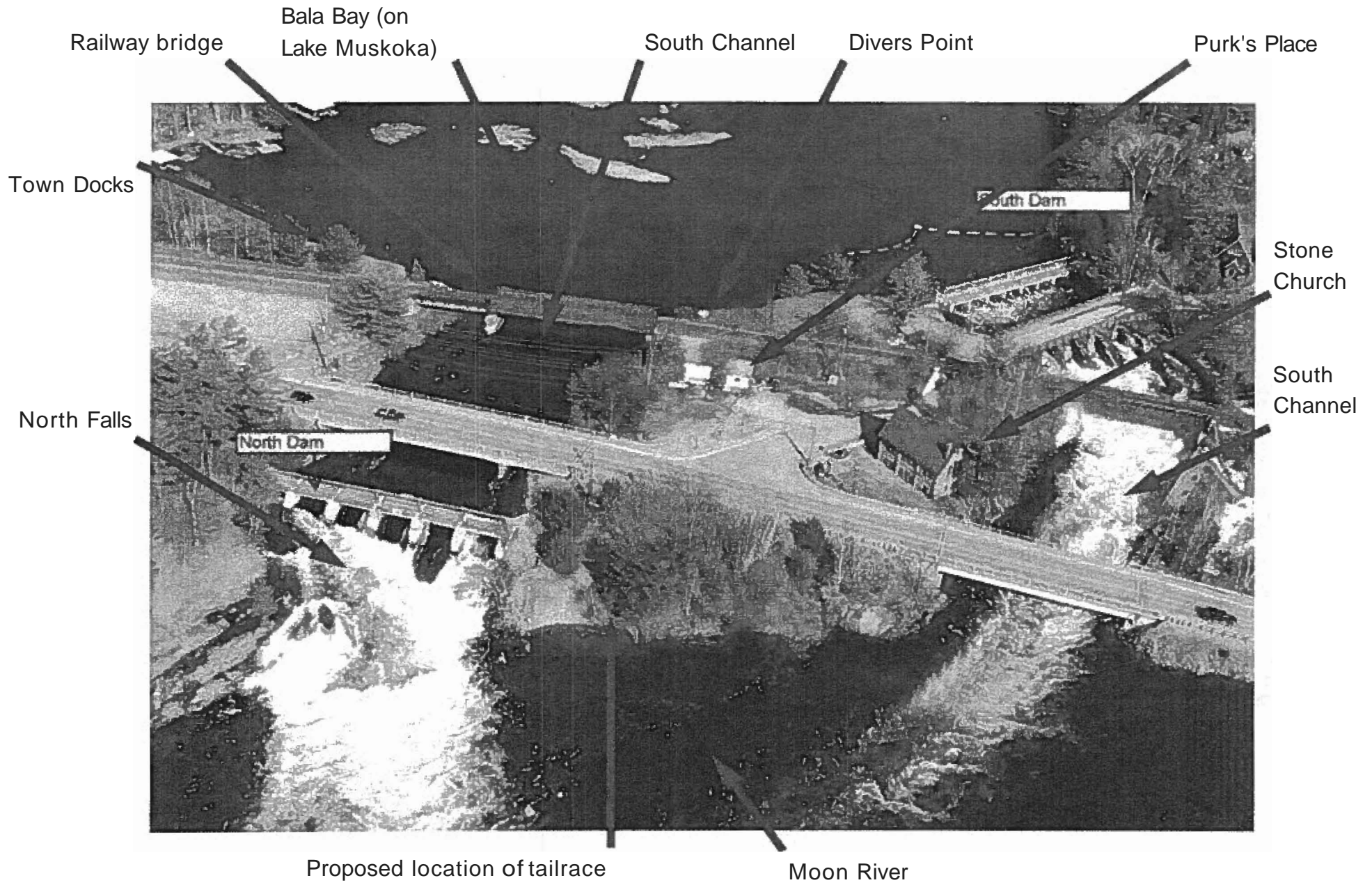
The Terms of Reference for the Individual Environmental Assessment would need to include the following:

- 1) Providing the reports detailed above.
- 2) That we be interactively involved with both the work definition, and in reviewing draft copies of the reports produced so that we can be sure that the required information is provided.

We tried to work in this manner with the proponent during the past years, and we feel that their refusal to have open and interactive discussion has detracted from the thoroughness of their work, as demonstrated by the missing information detailed above.

5 Figures and Drawings

To distinguish the references to Figures in this report from those in the environmental screening report, the term "below" is used for those below (as in "Figure 2, below").



Where's the huge orange safety booms and the warning signs



Where's the B1'-wide concrete and chain-link fence water intake

Where's the loud generator cooling fan intakes and hot exhausts

Where's the hoist mechanism for the intake gates

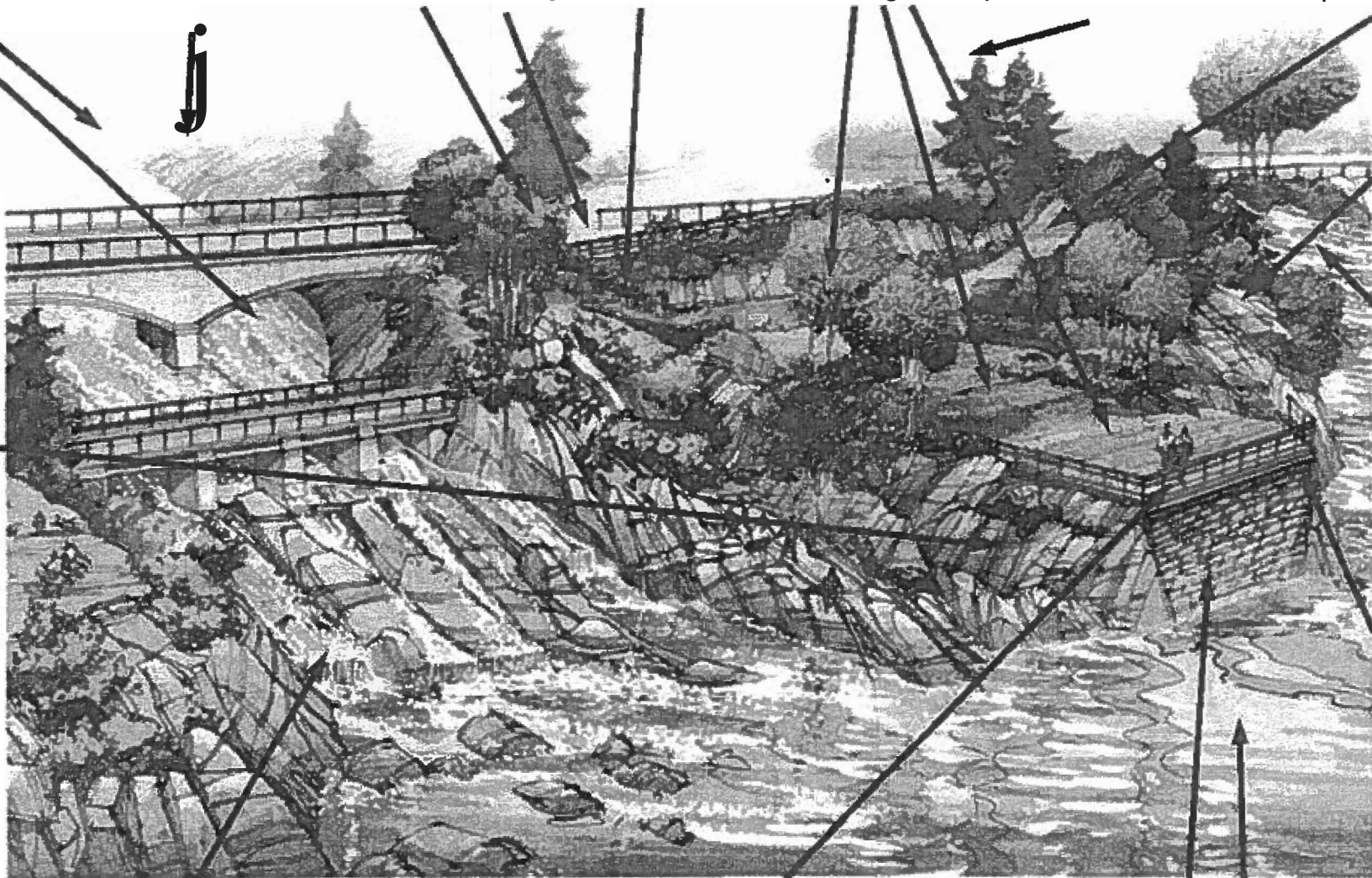
Where's the entrance door

There will be three 13' x 13' decks over the maintenance accesses, leaving less room for green space

Utility pole with huge 44,000-volt cables running up to the ugly disconnect on top

Where's the 75' retaining wall for the driveway (and how is grass to grow on the driveway)

This is the most important view-and it will be the side of a huge concrete cube with some rocks piled up the side-there's nothing natural about it



Where'd all the water come from, there would only be 1 or 2 m³/s of scenic flow

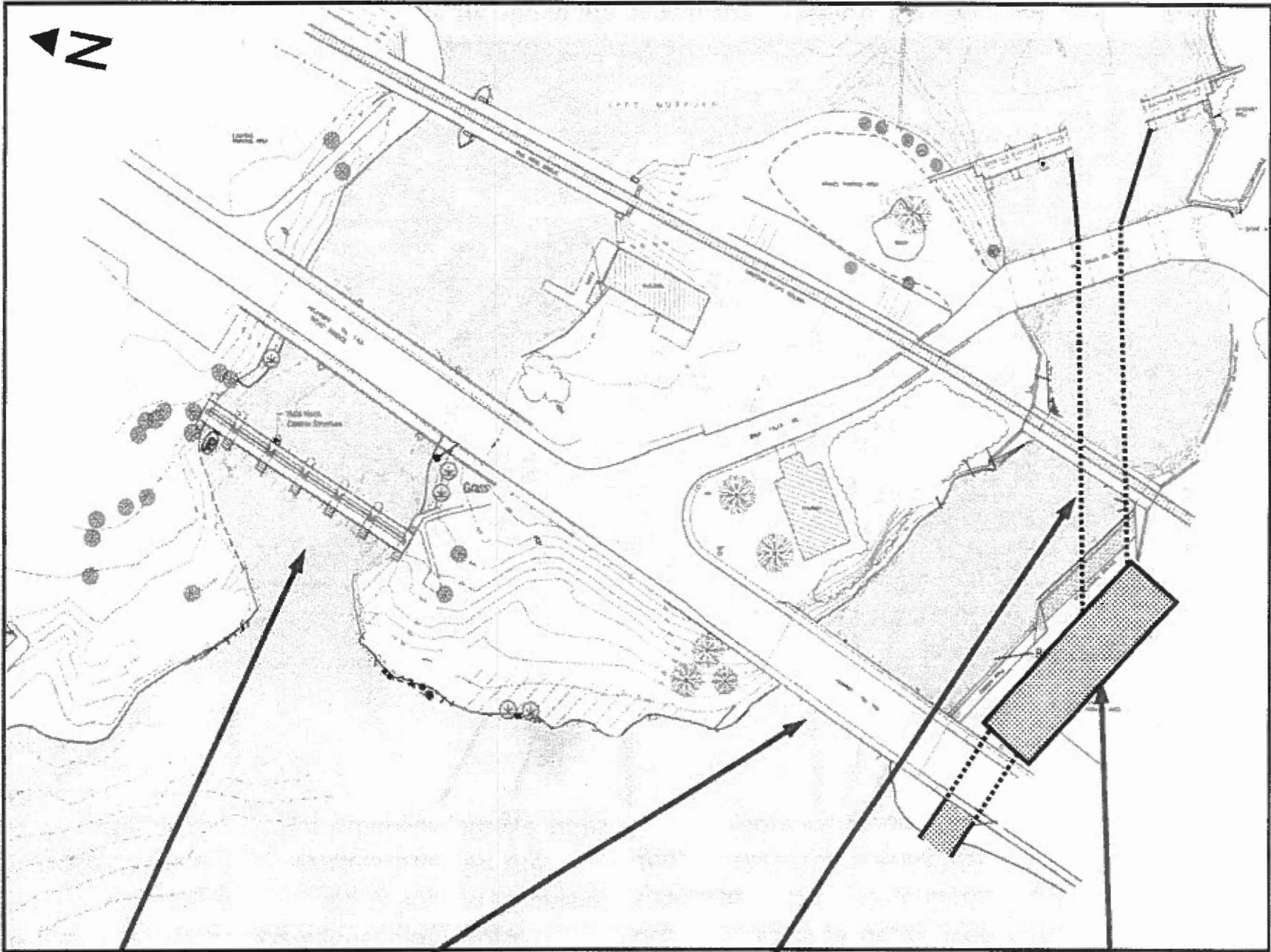
Where's the hoist mechanism for the roller gate

Where'd all the water come from, there would only be 1 m³/s of scenic flow

This is a fence 18' above the dangerous turbulent water exiting the power station - it has to be uglier to keep

This is a 33'-wide false wall (over the steel gate) facing the Moon River, it won't

Where's the huge orange safety boom and the



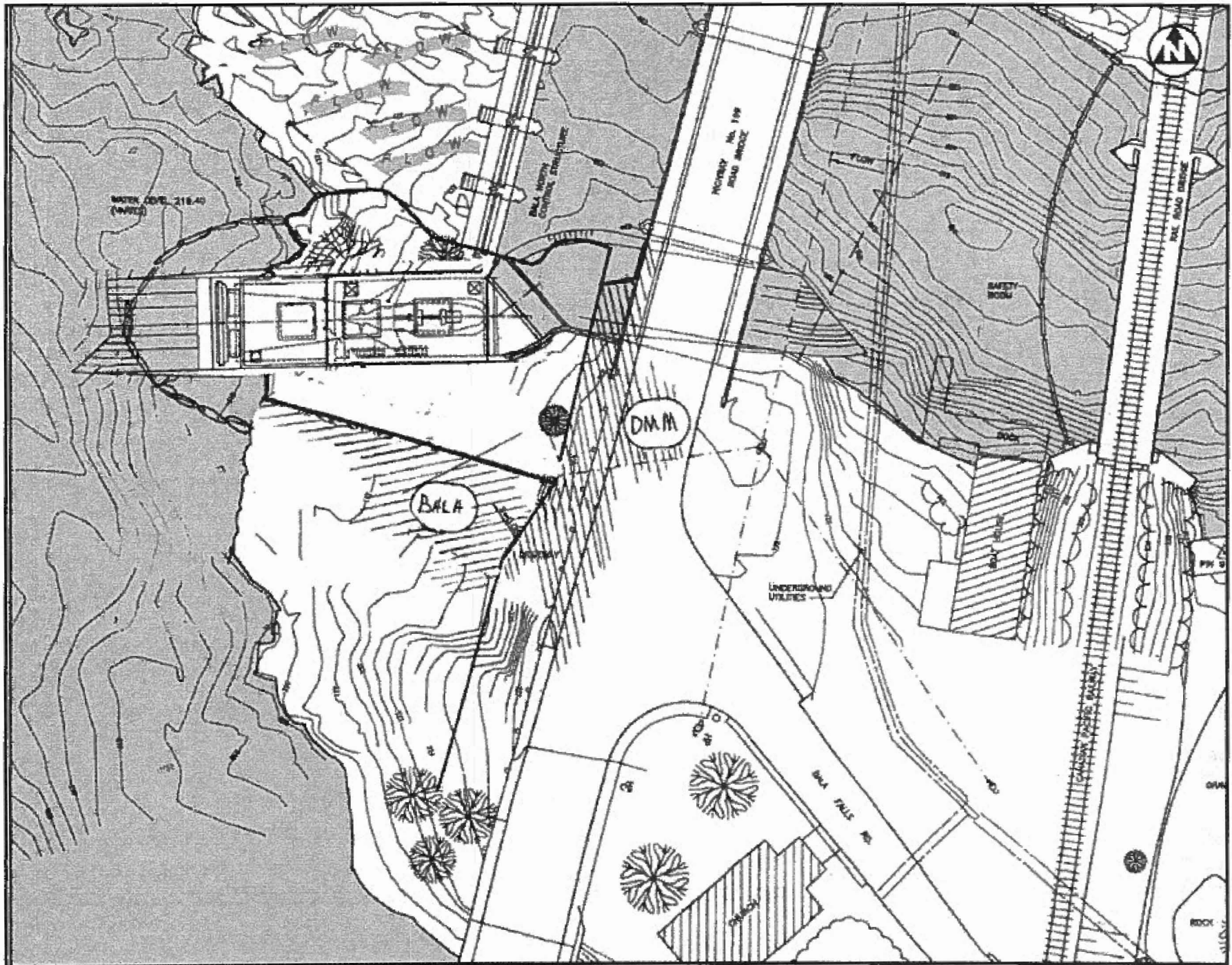
North Falls and Channel

South Falls and Channel

Penstock buried below South Channel

Power Station (buried, roof would be level with parking lot)





Refer to item 8.i., By-law 2009-151, to appoint Councillor Mary Grady as Deputy Mayor for the Township of Muskoka Lakes.

3. Report from the Clerk: Procedural By-law Amendment. A copy of the report is attached.

Refer to item 8.i., By-law 2009-153, to amend the Township's Procedural By-law.

4. Report from the CAD Re: North Bala Small Hydro Project - Environmental Screening / Review Report. A copy of the report is attached.

The CAO reviewed his report regarding the Environmental Screening Review Report for the North Bala Small Hydro Project. The CAD reviewed the Screening Report to ensure the Township's interests and concerns were addressed as indicated in previous resolutions passed by the Township of Muskoka Lakes.

The CAD highlighted the 5 specific areas outlined in the report indicating that further information is required by the Township regarding the Hydro Project.

Council directed that the November 24, 2009 report be amended to request that the proponent be responsible for the expenses of an economic impact study and any mitigation strategies necessary to the end of the process.

Resolution Number: C-23-24/11/09

Councillor Grady - Councillor Hare: Be it resolved that the Report, "North Bala Small Hydro Project - Environmental Screening Review" be forwarded to Hatch Energy for response to the various questions outlined in the analysis section of the report dated November 24, 2009, all in keeping with the Environmental Screening Process established by the Ministry of the Environment, and;

Further that the Township of Muskoka Lakes requests that the Environmental Screening Process Review Period be extended for an additional 90 days in order to address the municipalities concerns, and;

Further that Township staff report its findings back to Council at some future date.

Carried.



Agenda Reference 9a4.

COUNCIL MEETING

DATE: 24 Nov 2009

RESOLUTION NUMBER: C-23-24/11/09

MOVED BY: Mary Sweeney
 SECONDED BY: Brian Hare

BE IT RESOLVED THAT: the Report , "North Bala Small Hydro Project- Environmental Screening Review" be forwarded to Hatch Energy for response to the various questions outlined in the analysis section of the report dated November 24, 2009, all in keeping with the Environmental Screening Process established by the Ministry of the Environment, and;

Further that the Township of Muskoka Lakes requests that the Environmental Screening Process Review Period be extended for an additional 90 days in order to address the municipalities concerns, and;

Further that Township staff report its findings back to Council at some future date.

RECORDED VOTE:	NAYS	YEAS
COUNCILLOR ARNEY		
COUNCILLOR DAVIDSON		
COUNCILLOR DENYAR		
COUNCILLOR GRADY		
COUNCILLOR HARE		
COUNCILLOR THOMPSON		
COUNCILLOR WALLACE		
MAYOR ELLIS		

MOTION DEFEATED
MOTION ~~DEFEATED~~ *Carried*

TOTALS

Karen Ellis
MAYOR



COUNCIL
AGENDA REPORT

TO: Mayor Ellis and Members of Council
MEETING DATE: November 24, 2009
SUBJECT: NORTH BALA SMALL HYDRO PROJECT - ENVIRONMENTAL SCREENING / REVIEW

RECOMMENDATION: 1) Be it Resolved that the Report , "North BaJa Small Hydro Project- Environmental Screening Review" be forwarded to Hatch Energy for response to the various questions outlined in the analysis section of the report, all in keeping with the Environmental Screening Process established by the Ministry of the Environment, and;

2) That the Township of Muskoka Lakes requests that the Environmental Screening Process Review Period be extended for an additional 90 days in order to address the municipalities concerns, and;

3) That Township staff report its findings back to Council at some future date.

<u>APPROVALS:</u>	Date	Signature
Submitted By: Walt Schmid, CAO	<u>24/11/2009</u>	<u>Original signed by W. Schmid</u>

ORIGIN:

The Government of Ontario has released a number of potential hydro electric power generation sites for development throughout the province. The North Bala Dam project was offered for competitive release under the MNR Waterpower Site Release Policy. Swift River Energy Limited Partnership (SREL) was named as the Applicant of Record (AR), giving SREL the leave to undertake an environmental assessment of the proposed project and to seek the requisite permits and approvals.

BACKGROUND:

SREL hired Hatch Energy to complete an Environmental Screening Report which was completed in October 2009 and is now out for public comment for the

development of a 4.3 MW run of the river hydroelectric facility at the North Bala Dam. The proposed project is subject to the Ontario Environmental Screening Process for Electricity Projects as well as the Canadian Environmental Assessment Act.

The release of the October 2009 ESR provides council with its first opportunity to analysis the proposed project with all facets presented together in one document and provides new information not yet presented.

Council is advised that over the last number of years the Government of Ontario has been discussing the introduction of a Green Energy Act. In 2009 the Province passed the Green Energy and Green Economy Act. Part II, Sections 5(2) and 5(3) of the new Act indicate that municipal by-laws would be rendered inoperative with respect to designated renewable energy projects. It is likely that this will apply to the North Bala Dam Project.

Over the last number of years the Council of the Corporation of the Township of Muskoka Lakes has passed the following resolutions relative to the project:

- 1) On January 5, 2005 Resolution PC-7-5/01/05 was carried stating;

"the Township of Muskoka Lakes advise the MNR that any potential development at the Bala North Dam operated in accordance with the operating ranges of Lake Muskoka and Bala Reach as specified in the MRWMP;

and further that any potential facility also consider the need for scenic flows, public access for traditional uses and continuity of business in local area;

and further that a member of the Public Advisory Committee for the MRWMP be included on the review team for the proposed development."

- 2) On July 8, 2008 Resolution C-29 08/07/08 was carried stating :

"BE IT RESOLVED THAT the Council of the Township of Muskoka Lakes, concurs "in principal" that the District Municipality of Muskoka consider the use of the District owned lands, located on the south side of the Bala Falls North Dam, by Swift River Energy, as part of a new hydroelectric generating facility, all subject to further public input and successful completion of the required Environmental Screening".

- 3) On October 21 , 2008 Resolution C-14-21/1 0/08 was carried stating :

"the council of the Township of Muskoka Lakes recommends to the Ministry of Natural Resources, and Swift River Energy that the environmental screening for the hydro project at the North Bala Falls include:

the heritage value of the North Bala Falls and any related heritage impact the hydro generation station may have on the falls. And that

- ii the environmental screening process takes into consideration the potential impact that the proposed construction may have on Bala's

economy, including its important winter economy by addressing safe snowmobile movement around the construction site, by investigating alternative water crossings of Bala Bay."

ANALYSIS:

The October 2009, Environmental Screening Report was discussed with the Township's Senior Management Team. Comments and recommendations contained in this report are those of the review group.

It should be noted that the Township of Muskoka Lakes does not have the authority to approve nor deny the Environmental Screening Report (ESR). This authority lies solely with the Province of Ontario.

Comments on the ESR will be specific to concerns of the municipality although the municipality may not have jurisdiction in that area.. These specific areas of interest were identified in the township council resolutions listed above and are summarized below. Additional items were identified while reviewing the report and are included in the discussion.

- 1) Will the Bala North Dam will be operated within the Lake Muskoka / Bala Reach operating ranges as set out in the MRWMP.

Comment Water levels and flow velocities fall within the jurisdiction of the Ministry of Natural Resources. The ESR indicates that the requirements of the MRWMP will be adhered to during the future operation of a SREL hydro electrical generating facility. SREL will operate the North Bala and South Bala Falls Dams as well as any water flow through the powerhouse. It will be the MNR's responsibility to monitor and ensure that the MRWMP conditions are met both upstream and downstream of any future facility.

The municipality seeks further clarification both from MNR and SREL as to the impact on Lake Muskoka water levels during high flows or the spring freshet, resulting from the establishment of the temporary cofferdam/working platform, proposed to be constructed in the North Channel upstream of the powerhouse intake. The proposed working platform would appear to block a significant portion of the North Channel, which would otherwise be able to convey water from Lake Muskoka downstream. Will the temporary coffer dam/ working platform result in temporary higher water levels in Lake Muskoka? If so to what extent? Does the south dam have the capability to convey all the upstream flow. If not, to what extent does the south dam have the ability to relieve higher water levels on Lake Muskoka? Are there other constrictions upstream of the North Dam that has a greater effect on any backwater effects in Lake Muskoka created by the working platform? What measures are proposed to mitigate upstream flooding during construction should the introduction of the working platform create increased water levels on the Lake.

- 2) That any potential generating facility consider the need for scenic flows, public access for traditional uses and continuity of business in the local area;

Comment:

Scenic Flows: ESR Figure 6.1 illustrates a hydrograph of the *projected* median (50% probability) weekly flows at the north dam, south dam and those flows to be conveyed through the power plant. Figure 2.4 illustrates a hydrograph of average weekly *historical* flows at the north and south dams. Based on a review of Figure 6.1 and Figure 2.4 and recent discussions for clarification with SREL and MNR staff, the following general observations may be made;

- North Dam: With the exception of the Walleye fish spawning season, when flows are increased to meet fisheries requirements, the proposed flows at the North Dam will be limited to the existing leakage through the dam stop logs. This is typically the flow that might be observed during the *drier* summer weeks in mid July and August. It has been estimated that 1 cms of water leaks through the north dam during this time of year, perhaps more after a rainstorm event. Average historic flows at the North Dam may decrease from 7 +/- cms between mid May to July and increase to 7 +/- cms from September to October respectively. Average historical flows increase to 30 +/- cms between November and early March, increasing to 120 +/- cms during the spring freshet. After the introduction of the generating station, the historic higher volume flows over the North Dam will no longer exist, as they are diverted to the generating station. It should be kept in mind that future flows during the summer tourist season should be similar to historic flows.
- South Dam: Similar to the North Dam, the majority of flow that would historically have passed over the South Dam will be diverted to the hydro generating station, with the exception of the spring freshet, February to May. SREL proposes to mitigate the scenic flow impact at the South Dam by ensuring that a minimum of 2 cms of water is released down the South Channel through both stop log leakage and dam release. Average historical volumes vary from a spring freshet high of 145 +/- cms to a mid August low of 7 +/- cms. During the summer tourist season (July and August) flows may vary between a high of 25 cms and a low of 7 cms. During the Thanksgiving / Cranberry Festival period, average historic flows may increase to 65 +/- cms.

Discussions with various individuals indicate that it is not unusual to have only stop log leakage descending the south channel during the driest parts of the summer and accordingly there may be no significant variance from the historic midsummer tourist season. That having been said, a wet summer as experienced in 2009, almost always guarantees significant flows over the South Falls, and a related scenic flow impact. This would not be the

case if the proposed power generation facility were to be constructed.

- Proposed Mitigation: The proposed diversion of water through the generating station will have an obvious impact on the historic scenic flows and views over both the North and South dams. SREL has attempted to mitigate this by ensuring guaranteed minimum amounts of water over or through both dam structures. The question that may be asked is, "*What is the difference in the aesthetic scenic flow of 1 cms or 2 cms, discharged over the two respective dams, as compared to some higher value*". Flows over Niagara Falls are frequently varied to maximize hydro electric power generation, while at the same time ensuring the aesthetic tourism need.

It is recommended that both dams be modelled in order to visually observe the proposed controlled water flows. Based on this observation, a better determination can be made to establish an acceptable aesthetic flow over the dams. I.e. A slight increase of flow at the North Dam may better simulate historic flow conditions over a six month period, as per ESR Report, Figure 2.4. Similar observations should be made at the South Dam. A joint review committee of MNR, SREL and township representatives, perhaps a member of the MRWMP Public Advisory Committee are recommended.

- 3) That a member of the MRWMP Public Advisory Committee be included on the review team for the proposed development.

Comment: The writer is not aware that a member of the MRWMP Public Advisory Committee has reviewed the ESR Study. Input from this important committee would be beneficial to the final analysis of the ESR document. Additional time to seek MRWMP input is required.

- 4) That the ESR addresses the heritage value of the North Bala Falls and any related heritage impact the hydro generating station may have on the falls.

Comment:

- The ESR undertook both an archaeological assessment of the project area and a heritage impact assessment.
- Archaeological Assessment: Stage I and II archaeological assessments were completed by Archaeological Services Inc. and Advance Archaeology respectively. No artifacts were recovered, no structural remains, industrial remains or any other cultural heritage resources were discovered of historic or pre contact times. The lack of any findings are likely the result of the extensive changes that have been experienced in the area over the years.

Advance Archaeological has recommended to the Province, a complete clearance of the archaeological condition on the subject property.

It should be noted that the Ministry of Culture must sign a *letter of clearance* of the archaeological condition, prior to any construction operations, earth moving or blasting takes place.

- Heritage Impact Assessment: Historica Research Limited conducted a Heritage Impact Assessment of the study area as requested by Council. The study provides a very interesting read of the history of the Bala Falls area and is well worth reading. What is interesting to note is the substantial number of man made changes that have taken place in the area, extending from the existing and still operating Mill Street Power House to the northwest, south-easterly to the existing South Dam and Channel.

Historica identifies that an original falls existed at Mill Street which conveyed flows from Lake Muskoka downstream to the Moon River. This was in addition to the existing North Falls.

Around 1870 Thomas Burgess constructed a saw mill adjacent to what currently the Mill Street channel. In 1917 Bala Light and Power Company constructed the existing Mill Street hydro generating station, "Bala #1", which flooded the Mill Street falls, creating the channel that exists today.

In 1874 the first dam was constructed in the existing North Channel. This dam modified or reconstructed in 1886 and again in 1909.

Extreme water level conditions on Lake Muskoka continued to exist varying as much as nine feet throughout the year. These extremes resulted in spring flooding and low water navigation difficulties during the summer months. To mitigate these water level extremes, the existing south channel was blasted through the bedrock in 1875. The new south channel, created what is currently referred to as the South Falls. Severance from the mainland created a new island, commonly referred to as Burgess Island. The South Dam itself was constructed in 1876/78, reconstructed in 1899, 1913 and again in 1958.

In 1924 the Bala Light and Power Company constructed a second power generating station adjacent to the North Falls. This plant was purchased by Ontario Hydro in 1929 and operated until 1957. The power house was demolished 1972.

Numerous other man made changes have occurred in the Bala Falls area since 1870, including the construction and reconstruction of bridges, creation of the Old Federal Wharf (steamer dock), the CPR railway line and bridge (1907), CPR underpass, Burgess Memorial Church (designated under Part IV of the Ontario Heritage Act), Purk's Place/Hurling's Boat Livery and the Anglican and United Churches on either sides of the South and North Dams respectively and certainly the realignment of the highway, by the province, of what is now Muskoka Road #169.

It is noted that the Historica document should be revised to clarify that ownership of the old Bala # 1 Generating Station (Mill Street) resides with the Township of Muskoka Lakes.

Historica's evaluation concludes that *"The area of the Bala Falls extending from the park on the south shore of the Muskoka River to the park on the north side is a distinct cultural heritage landscape of water management, power generation, tourism, and transportation."*

Historica's recommends that:

- a) *The powerhouse and intake structure should be designed such that they are visually sympathetic to the cultural heritage landscape of the Bala Falls and,*
 - b) *That interpretive plaques be designed and installed to interpret the historic values of the Bala Falls area.*
- Correspondence: Council is in receipt of recent correspondence (November 12, 2009) from the Muskoka Branch of the Architectural Conservancy of Ontario. This letter expresses concern that ; *"The project will negatively impact on the cultural qualities of the of recreational use by the elimination of the public access to long established water routes, the century old portage, and park based activities"*.

Insufficient time has been available to contact the Conservancy since receipt of the letter to fully understand its concerns, nor is the writer aware of any response to the Conservancy from Hatch Energy. Additional time is required for further dialogue between all parties to fully understand their concerns.

- Official Plan: Various sections of the Township's 2009, adopted Official Plan, speak to issues that may be relevant to the impact of the proposed hydro generating development, including protection of existing features, promotion of park space, access to water etc. The adopted Official Plan also speaks to the acceptance of existing power facilities and development of new electric power facilities provided each new development satisfies the provisions of the Assessment Act and any other relevant statutes.

It should be noted that Sections 62.02 (3) and (6) of the Provincial Planning Act speak to Green Energy Development and state:

62.02(3) For greater certainty, an official plan does not affect a renewable energy undertaking.

62.02(6) A by-law or order passed or made under Part V does not apply to a renewable energy undertaking.

Further discussions with SREL and Hatch Energy are required to fully understand the proposed concepts and proposed mitigating measures.

- 5) That the ESR take into consideration the potential impact that the proposed construction may have on the Bala economy, including the winter economy, by addressing safe snowmobiling movement

around the site, by investigating alternative water crossings of Bala Bay.

Comment:

- Impact on Bala's Economy during Construction: SREL has forecast, that the construction of the hydro generating station will take approximately 18 months to complete. It is proposed to start construction immediately after the Bala Cranberry Festival (October) with completion expected one and a half years later in approximately **June**.

The proposed \$14.5 million dollar hydrogenating project includes \$3.2 million in material costs, \$1.8 million in equipment costs, \$4.5 million in labour costs. The ESR estimates that there will be 4000 to 6000 person days of labour during the construction period. The ESR states that no mitigating measures are necessary as any effect on the local labour force will be positive. The Township does not necessarily concur as it is anticipated that certain areas of the local economy may be effected during the construction period.

As with any major construction project, the construction may have an impact on the local economy, potentially negatively due to possible traffic delays during the summer tourist season, and potentially positively as construction activities introduce new monies into the local economy that would otherwise have not existed.

The construction will have the greatest effect on Purk's Place and Burgess Memorial Church Antiques. It is understood that SREL is in discussions or is attempting to entere into discussions, with both businesses to address construction interruptions.

Economic Impact Study during construction: It is recommended that an Economic Impact Study be conducted by SREL to illustrate to what sectors of the local economy may benefit from the proposed construction work, and what preparations are needed in order to meet the project requirements. The study should also identify and address what sectors of the local economy may be negatively impacted and what these sectors can do in coordination with SREL and its contractor to mitigate any negative effects during construction. The study should consider the creation of a local committee, comprised of SREL, the contractor and local representatives (both business and residential) that would meet on a regular basis to identify "items of concern" prior to the issues becoming "problems" This committee should be used to mitigate as much as possible any negative impacts experienced during construction. This committee should develop "proactive" business strategies in support of the local businesses and retailers. For example advanced roadside signage indicating that, *"Bala Merchants are Open for Business During Construction"*:

SREL, possibly through the Chamber of Commerce and or the Township, should ensure that existing tourism events such as the Bala Bay Regatta, Cranberry Festival, Bala Summer Market, Craft and Gift fair, Antique and Nostalgia Show, Bala Museum Santa Clause Parade are minimally effected by any construction interruption.

It is also recommended that Swift River Energy incorporate "buy local where possible" policies in its agreements with the project contractors. This may include the use of local accommodations or eating establishments, aggregate, lumber, equipment, fuel suppliers, truckers, and the acquisition of other local goods and services. The intent would be to minimize, where ever possible, the potential impact of the construction activities on the local economy. Coordination with the Muskoka Lakes Chamber of Commerce in creating a reference data base of its members could be created for easy contractor use.

Snowmobiling during construction: Snowmobiling forms a significant component of the Bala's winter economy and the economy of the businesses that use the MSR trail both north and south of Bala. The proposed provision of a temporary Bailey Bridge over the intake channel may be problematic to the safe operation of the snowmobile route through Bala. If the bridge has steel decking, safe manoeuvring of snowmobiles may be difficult as it relates to any oncoming vehicular traffic. SREL has proposed a joint venture with the municipality for the provision of a Four Season Bridge from Divers Point Park to the Bala Wharf. Further discussions with the Township and the local snowmobile club are required to address this issue.

The ESR proposes to close Bala Falls Road between the CPR overpass and MR#169 during construction. Township Council approval is required for this road closure.

Other Construction Related Issues:

Section 5.2.1 of the ESR speaks to the possible crushing of rock on site. How will noise and dust emissions be monitored and controlled? During what time of year is the crushing proposed? Crushing activities during tourist months could be detrimental to the local economy. Clarification on this issue is required.

As mentioned previously the ESR should address the introduction of the upstream coffer dam / working platform in the North Channel and any potential backwater effects it may have. Any serious backwater effects may create property damage upstream. The Township wishes further clarification on this issue and input from the MNR and Hatch.

Muskoka Road #169 **will** be closed for two nights during construction as the intake channel is constructed under the roadway. SREL must contact Fire Services to ensure that appropriate fire response can be coordinated on either side of the intake channel while open. Regular communications shall be arranged throughout the project with the Fire Chief to ensure emergency service provision. GVW of emergency vehicles may be obtained From the Fire Chief.

A one lane Bailey Bridge is proposed for two weeks prior to the installation of a two lane Bailey Bridge structure. Timing of the installation of the Bailey Bridge is requested to ensure proper coordination with other Bala events and activities.

Other issues

Impact on Bala's Economy during Operation:

- Recreational fishing forms part of Bala's economy. The ESR has proposed to remove 200 m² of walleye spawning habitat, and construct 200 m² of new spawning habitat. Will reduced flows over the North and South Falls have a negative effect on both existing and new spawning beds? Is 200 m² of "manmade" spawning habitat sufficient to maintain the fishery? The municipality has no experience in this field. The Township wishes further clarification on this issue and input from Hatch, MNR and DFO to ensure the fishery.
- Redirected flow through the generating station will result in reduced flow volumes over the North and South Dams, resulting in changes in the aesthetics in these two locations. As discussed earlier, these flows may be similar to dry summer weather flows, however, this issue needs to be discussed with the MNR to understand the full visual impact on both falls and potential economic impact. Consideration should be given by the province, providing it flexibility to increase the minimum flows over the North and South Dams, if the proposed 1 ems and 2 cms flows serious effect the aesthetics of the falls. Aesthetics of the Falls has a direct impact on the Bala economy.
- Park Development: Section 6.3.1 of the ESR speaks to the creation of a new park over the power house and tailrace. There are a number of different concepts of the park included in the documentation. If the SREL project is approved, the Township wishes to participate in the park design and discussions relating to ongoing park operations as well as the development of illustrative plaques in the Bala Falls area as recommended by Historica.
- Section 9.4 should be revised to indicate that Burgess Generating Facility is owned by the Township and operated by Algonquin Power.

Public Safety

- Safety Booms are illustrated both upstream and downstream of the generating facility, Figure 6.5. The ESR should confirm that these are in fact the final locations for the safety booms or that they are illustrative in nature only. DFO confirmation is requested.
- Figures 6.2c and 6.2d illustrate flow velocities in the approach channel upstream of the power house intake. Depending on the volume of water, velocities vary. The Township requires further clarification as to expected flows in and around the Bala Wharf under various flow conditions during different times of year. A comparison of existing flow velocities is also requested (water going over the existing North Dam). The ESR projects maximum flows of 0.6m/s in the intake channel. The Township requires that flow velocity figures be created for the area further out into Bala Bay to understand the potential impact on recreational swimming, canoeing and boating in that area and related safety issues.

- Clarification is required regarding the ability of the public to access the north shore of the North Falls. Will currents from the tailrace prohibit swimming in the area?
- The FORAC illustrative figure indicates that the public will have access to the south bank of the North Channel adjacent to the powerhouse. Confirmation of this access is requested and clarification of the actual location required.
- Section 6.3.6.1 speaks to the issue of the "portage" used between Lake Muskoka and the Moon River. This section requires clarification.
- Section 6.3.6.1 states that access to the water in the area of the works will be discontinued. The ERS should be clarified to illustrate where and how this restriction is to be done. Any restrictive barrier should be sympathetic to the recommendations of Historica.
- SREL is advised that a snowmobile trail exists adjacent to the north side of the intake channel. This trail acts as a pedestrian way in non winter months and is an important transportation link in Bala. The Township wishes confirmation that this trail will not be affected by the proposed construction and future plant operations.
- SREL is requested to identify any restrictions or warnings that may be imposed on divers in and around the works.

Future Employment and Economy

- In section 6.3.7 SREL estimates that the generating operation will create the equivalent of one full time employee. The facility will be remotely operated.
- If the proposed hydro works are approved it will have a long term impact on the Purk's Place Boat House and Marina, which would have to be relocated. A mutual agreement between both parties will be required prior to the project proceeding.
- The Township requests that an Economic Impact Study be undertaken by an independent consultant to identify both the positives and negative attributes of the proposed hydro development in Bala after the construction is completed and the plant is operational. The study should identify amongst other things, the effect on the seasonal and year round economy, if any, given the proposed changes to the North and South Falls. If negative concerns are raised the report should identify possible mitigating measure could be taken.

Bonding or Securities

- The Township inquires whether the Province requires a Bond or Security for the completion of the project if approved.

CONCLUSION:

The above noted report identifies a number of issues in the ESR that require clarification and that should be addressed prior to a final position of Council being established. It is recommended that the ESR review period be extended by 90 days in order to address these issues.

THE CORPORATION OF THE TOWNSHIP OF MUSKOKA LAKES
MINUTES - COMMITTEE OF THE WHOLE MEETING

Wednesday, November 4, 2009

A Regular Meeting of the Committee of the Whole was held on Wednesday, November 4, 2009, at 9:00 a.m. in the Council Chambers, Municipal Offices, Port Carling Ontario.

PRESENT:

Mayor Susan Pryke, Chair

COUNCILLORS:

Brian Hare
Dianne Davidson
Ian Wallace
Karen Ellis
Liz Denyar
Mary Grady
Nancy Thompson
Patricia Arney

OFFICIALS PRESENT:

W. Schmid	-CAO
C. Mortimer	- Clerk
T. Guthrie	- Administrative Assistant, Clerk's Department
J. Stevens	- Treasurer
J. Sawkins	- Fire Chief
L. Saumur	- Manager of Parks, Recreation and Facilities
D. Pink	- Senior Planner
S. Fahner	- Director of Planning

1. Call to Order

- a. Mayor Pryke called the meeting to order at 9:00 a.m.

2. Adoption of Agenda

- a. Consideration of a resolution to adopt the agenda as amended.

ReSOLution Number COW-1-4/11/09

Councillor Hare - Councillor Ellis: Be it resolved that the Committee of the Whole agenda dated November 4, 2009 be adopted as amended to add item 13.a. Consideration of a resolution Re: North Bala Small Hydro Project, Environmental Screening Review Report.

Carried.

3. Disclosure of Interest

- a. None



Agenda Reference 2a.

COMMITTEE OF THE WHOLE

DATE: 04 Nov 2009

RESOLUTION NUMBER: COW- 1 - 4/11/09

MOVED BY:

Brian Hand

SECONDED BY:

Karen Ellis

BE IT RESOLVED THAT: the Committee of the Whole agenda dated November 4, 2009 be adopted as amended to add item 13.a. Consideration of a resolution Re: North Bala Small Hydro Project, Environmental Screening Review Report.

RECORDED VOTE: NAYS YEAS

- COUNCILLOR ARNEY
- COUNCILLOR DAVIDSON
- COUNCILLOR DENYAR
- COUNCILLOR ELLIS
- COUNCILLOR GRADY
- COUNCILLOR HARE
- COUNCILLOR THOMPSON
- COUNCILLOR WALLACE
- MAYORPRYKE

MOTION DEFEATED
MOTION CARRIED

[1]
[0]

TOTALS

Susan Pryke
MAYOR

The Clerk outlined the report noting that the **by-law** and its fees have not changed since 1996. The Township's solicitor has reviewed and updated the by-law and proposed fee structure.

Committee discussed the proposed fee structure and supported the proposed Establishment Permit Fees. Staff were directed to obtain additional comparisons of the annual operator's license fees.

- i. Report from the CAO Re: Duke House Operations. A copy of the report is attached.

It was the consensus of Committee to create an Ad Hoc Committee to discuss the role of the Duke House for the 2010 Ontario Youth Winter Games and the G8/G20 Summit. A resolution will come forth at a future Committee of the Whole meeting.

The CAO advised that the Ad Hoc Committee would be dissolved following the G8 Summit in June 2010.

- j. Report from the CAO Re: Township of Muskoka Lakes H1N1 Precautionary Measures. A copy of the report is attached.

The CAO highlighted the report regarding measures being taken for H1N1 virus prevention including facility cleaning, continuity planning, personnel protection, waiving the requirement for a doctor's note, and temporary provisions for sick leave.

Resolution Number COW-9-4/11/09

Councillor Davidson - Councillor Denyar: Be it resolved that the Committee of the Whole recommend to Township Council that recommendations one to six included in the discussion section of the November 4, 2009 staff report regarding H1 N1 Precautionary Measures be adopted.

Carried.

13. New and Unfinished Business

- a. North **Bala** Small Hydro Project, Environmental Screening/Review Report. *(This item was referred from the November 3, 2009 Council meeting, item S.b, Delegations.)*

Committee passed the following resolution to direct staff to review the Environmental Screening/Review Report prepared on the North Bala Small Hydro Project.

Councillor Thompson requested a recorded vote.

Resolution Number COW-1 0-4/11/09

Councillor Ellis - Councillor Hare: Be it resolved that the Committee of the Whole recommend to Township Council that staff be directed to review the October 2009 Environmental Screening / Review Report for the North Bala Small Hydro Project to determine if the items referenced in Council Resolution Number C-14-21/10/08, have been addressed to the municipality's satisfaction, namely

- 1) The heritage **value** of the Bala Falls
- 2) Potential impact that the proposed construction may have on Bala's economy
- 3) Safe snowmobile movement around the construction site
- 4) Investigation of alternative water crossings on Bala Bay

AND FURTHER THAT the following areas of Township jurisdiction have been addressed to the satisfaction of the municipality, namely:

- 1) Public safety
- 2) Creation of a park on lands above the powerhouse
- 3) Creation of a snowmobile bridge
- 4) Scenic flows
- 5) Public access for traditional uses

RECORDED VOTE:

YEAS

COUNCILLOR ARNEY	<u> </u>	<u> </u>	<u> </u>
COUNCILLOR DAVIDSON	<u> </u>	<u> </u>	<u> </u>
COUNCILLOR DENYAR	<u> </u>	<u> </u>	<u> </u>
COUNCILLOR ELLIS	<u> </u>	<u> </u>	<u> </u>
COUNCILLOR GRADY	<u> </u>	<u> </u>	<u> </u>
COUNCILLOR HARE	<u> </u>	<u> </u>	<u> </u>
COUNCILLOR THOMPSON	<u> </u>	<u> </u>	<u> </u>
COUNCILLOR WALLACE	<u> </u>	<u> </u>	<u> </u>
MAYORPRYKE	<u> </u>	<u> </u>	<u> </u>

TOTALS	<u> </u>	<u> </u>	<u> </u>
--------	-----------	-----------	-----------

Carried.



COMMITTEE OF THE WHOLE

DATE: 04 Nov 2009

RESOLUTION NUMBER: **COW-10** -4/11/09

MOVED BY: *Karen Ellis*

BE IT RESOLVED THAT: the Committee of the Whole recommend to Township Council that staff be directed to review the October 2009 Environmental Screening / Review Report for the North Bala Small Hydro Project to determine if the items referenced in Council Resolution Number C-14-21/10108, have been addressed to the municipality's satisfaction, namely

- 1) The heritage value of the Bala Falls
- 2) Potential impact that the proposed construction may have on Bala's economy
- 3) Safe snowmobile movement around the construction site
- 4) Investigation of alternative water crossings on Bala Bay

AND FURTHER THAT the following areas of Township jurisdiction have been addressed to the satisfaction of the municipality, namely:

- 1) Public safety
- 2) Creation of a park on lands above the powerhouse
- 3) Creation of a snowmobile bridge
- 4) scenic flows *BH.*
- 5) public access for traditional uses *Kd.*

RECORDED VOTE:

- COUNCILLOR ARNEY
- COUNCILLOR DAVIDSON
- COUNCILLOR DENYAR
- COUNCILLOR ELLIS
- COUNCILLOR GRADY
- COUNCILLOR HARE
- COUNCILLOR THOMPSON
- COUNCILLOR WALLACE
- MAYOR PRYKE

YEAS

✓

✓

✓

✓

✓

✓

✓

✓

✓

9

TOTALS

0

MOTION DEFEATED

MOTION CARRIED ✓

Charmaine

MAYOR Clerk

Nancy Thompson requested a recorded vote.

5. Delegations and Petitions

- a. Shelley Raymond attended at 9:35 a.m. Re: Affordable Housing for Seniors in Muskoka

Ms. Raymond presented an Affordable Housing concept for seniors which her company, Solterra Co-Housing Limited, is providing in Muskoka.

The housing is a "tenant in common" model where a group of seniors co-own a percentage of a house which is renovated or built to suit the needs of seniors. Each senior or couple has their own private space along with shared common areas. The house sharing model promotes independence and decision making, allows for ownership and reduced living expenses and is self governed and controlled.

Ms. Raymond explained the corporate structure of her business and compared her model to the Abbeyfield Houses Society of Canada model.

Solterra hopes to have a house built in the Township of Muskoka Lakes in the future.

- b. Bill Purkis attended at 9:53 a.m. Re: Proposed Hydro Facility in Bala.

Mr. Purkis requested that the Township of Muskoka Lakes review the Environmental Screening Report prepared for the proposed North Bala Small Hydro Project to address items relative to the Township. He also requested that he be permitted to address Council in the future once he has reviewed the Environmental Screening Report.

It was the consensus of Committee to draft a resolution for the November 4, 2009 Committee of the Whole meeting directing staff to prepare a report.

6. Business Arising from the Minutes

- a. Report from the Clerk Re: Action Items from Committee Meetings. A copy of the report is attached.

Resolution Number: C-6-03/11/09

Councillor Arney - Councillor Wallace: Be it resolved that the following recommendations be enacted for action:

- October 14, 2009 Committee of the Whole Meeting recommendations 2 to 5, and

- October 15, 2009 Planning Committee Meeting recommendations 2 and 5.

Carried.



Agenda Reference 2a.

COUNCIL MEETING

DATE: 03 Nov 2009

RESOLUTION NUMBER: C- 1 .03/11/09

MOVED BY: *Karen Ellis*

SECONDED BY: *Brian Hare*

BE IT RESOLVED THAT: the Council Meeting agenda dated November 3, 2009 be adopted.
as amended to change the delegation of Alice Murphy to Bill Purkis (item 5.b.)

RECORDED VOTE:	NAYS	YEAS
COUNCILLOR ARNEY		
COUNCILLOR DAVIDSON		
COUNCILLOR DENYAR		
COUNCILLOR ELLIS		
COUNCILLOR GRADY		
COUNCILLOR HARE		
COUNCILLOR THOMPSON		
COUNCILLOR WALLACE		
MAYOR PRYKE		

MOTION DEFEATED
MOTION CARRIED

TOTALS

Susan Pryke
MAYOR

THE CORPORATION OF THE TOWNSHIP OF MUSKOKA LAKES
MINUTES- COUNCIL MEETING
Tuesday, November 3, 2009

A Regular Meeting of Council was held on Tuesday, November 3, 2009, at 9:00 a.m. in the Council Chambers, Municipal Offices, Port Carling, Ontario.

PRESENT:

Mayor Susan Pryke

COUNCILLORS:

Brian Hare
Dianne Davidson
Ian Wallace
Karen Ellis
Liz Denyar
Mary Grady
Nancy Thompson
Patricia Arney

OFFICIALS PRESENT:

W. Schmid -CAO
C. Mortimer - Clerk
T. Guthrie - Administrative Assistant, Clerk's Department
L. Forbes - Administrative Assistant, Planning Department
S. Fahner - Director of Planning
D. Pink - Senior Planner
N. Donald - Development Services Coordinator
M. Ellis - Planner

1. Call to Order

a. Mayor Pryke called the meeting to order at 9:03 am.

2. Adoption of Agenda

a. Consideration of a resolution to adopt the agenda as amended.

Resolution Number: C-1-03/11/09

Councillor Ellis - Councillor Hare: Be it resolved that the Council Meeting agenda dated November 3, 2009 be adopted as amended to change the delegation of Alice Murphy to Bill Purkis (item S.b.)

Carried.

3. Disclosure of Interest

a. None.

*Proposed
Hydro facility
in Bala*

- b. Consideration of a resolution to receive the draft Committee of the Whole Meeting minutes held on April 8, 2009.

Resolution Number: C-3-28/04/09

Councillor Thompson - Councillor Grady: Be it resolved that the draft Committee of the Whole Meeting minutes held on April 8, 2009 be received.

Carried.

- c. Consideration of a resolution to receive the draft Planning Committee Meeting minutes held on April 9, 2009.

Councillor Thompson reviewed the minutes for Council.

Resolution Number: C-4-28/04/09

Councillor Davidson - Councillor Arney: Be it resolved that the draft Planning Committee Meeting minutes held on April 9, 2009 be received.

Carried.

5. **Delegations and Petitions**

- a. Mr. Yoke Chan did not attend the meeting Re: Heritage Designation, Burgess Memorial Church, Bala (Item 9.a.1)

- b. Mr. Stan Hunter, Bala Falls Community Association attended at 10:25 a.m. Re: Environmental Assessment of Bala Falls Hydro Potential

Mr. Hunter from the Bala Falls Community Association attended the meeting to request Council's support to use municipal property and riparian rights for their proposal of using the Bala South Falls for the Swift River Energy Hydro Project.

Councillor Grady advised that she is not able to support the Bala Falls Community Association's request regarding the Bala South Falls proposal. The Bala South Falls is not a site that was made available by the Ministry of Natural Resources.

- c. Mr. Duncan Ross, Architect attended at 10:30 a.m. Re: Port Carling Library Roof and Foundation Restoration Tender (Item 9.b.1)

Mr. Ross provided Council with an update to the Port Carling Library roof and foundation restoration tender. At the April 8, 2009 Committee of the Whole meeting, Mr. Ross was directed to further research the cost breakdown for the project.

After examining the cost breakdown provided by the lowest bidder, Mr. Ross recommended the contract be awarded to RusCan General Contracting for a bid price of \$64,500.00 plus applicable taxes.

Refer to Item 9.b.1 for consideration of a resolution.

Resolution Number: C-2-03/02/09

Councillor Ellis – Councillor Hare: Be it resolved that the Council Meeting minutes held on January 13, 2009 be adopted.

Carried.

- b. Consideration of a resolution to receive the draft Committee of the Whole Meeting minutes held on January 14, 2009.

Resolution Number: C-3-03/02/09

Councillor Grady - Councillor Thompson: Be it resolved that the draft Committee of the Whole Meeting minutes held on January 14, 2009 be received.

Carried.

- c. Consideration of a resolution to receive the draft Planning Committee Meeting minutes held on January 15, 2009.

Councillor Thompson reviewed the minutes for Council.

Resolution Number: C-4-03/02/09

Councillor Martin - Councillor Wallace: Be it resolved that the draft Planning Committee Meeting minutes held on January 15, 2009 be received.

Carried.

- d. Consideration of a resolution to adopted the Special Council Meeting minutes held on January 15, 2009.

Resolution Number: C-5-03/02/09

Councillor Denyar - Councillor Arney: Be it resolved that the Special Council Meeting minutes held on January 15, 2009 be adopted.

Carried.

5. **Delegations and Petitions**

- a. Ms. Angela Ghikadis, agent, Planscape, attended at 9:15 a.m. Re: Item 10.a., ZBA 61/07, By-law 2008-14. (*refer to item to.a. New and Unfinished Business*)
- b. Mr. Jeff Mole, Bala Falls Community Association, and Alice Murphy, Save the Bala Falls Corporation attended at 9:30 a.m. Re: Bala Falls.

Mr. Jeff Mole made a presentation to Council on options for the Bala Falls Hydro Dam Project, a copy of which is attached.

Mr. Mole indicated that the Bala Falls Community Association has concerns with the proposed Hydro Dam project. They have developed a third option for the project using the South Falls and channel by the Bala Falls Road bridge. Mr. Mole offered advantages to locating the dam in this location. He requested Council's support of this alternative option and suggested that an assessment of option 3 be conducted.

The CAO advised that the Bala Falls Hydro project is a Provincial initiative. He indicated that at the end of the Environmental Assessment Process the public will be able to provide comment and feedback. This would be the time for the Bala Falls Community Association to present their option for the project.

Council discussed the ownership of the Bala Falls Road bridge and riparian water rights.

6. Business Arising from the Minutes

- a. Report from the Clerk Re: Action Items from Committee Meetings. A copy of the report is attached.

Resolution Number: C-6-03/02/09

Councillor Denyar - Councillor Wallace: Be it resolved that the following recommendations be enacted for action:

- January 14, 2009 Committee of the Whole meeting recommendations 2 to 14,
- January 15, 2009 Planning Committee meeting recommendations 2 and 3.

Carried.

7. Public Meetings

- a. Other Public Meetings
- b. Zoning Amendment Applications (in conjunction with Previously Heard Consent Application)
- c. Zoning Amendment Applications

8. By-laws

- a. By-law 2008-14, (1379961 Ontario Inc.)

Resolution Number: C-11-03/02/09

Councillor Arney - Councillor Hare: Be it resolved that By-law 2008-14, being a by-law to amend Comprehensive Zoning By-law 87-87, as amended, for lands described as Part of Lots 14 & 15, Concession B, (Bala), 1379961 Ontario Inc., Roll # 7-11-001-02, be read a first and second time.

Carried.

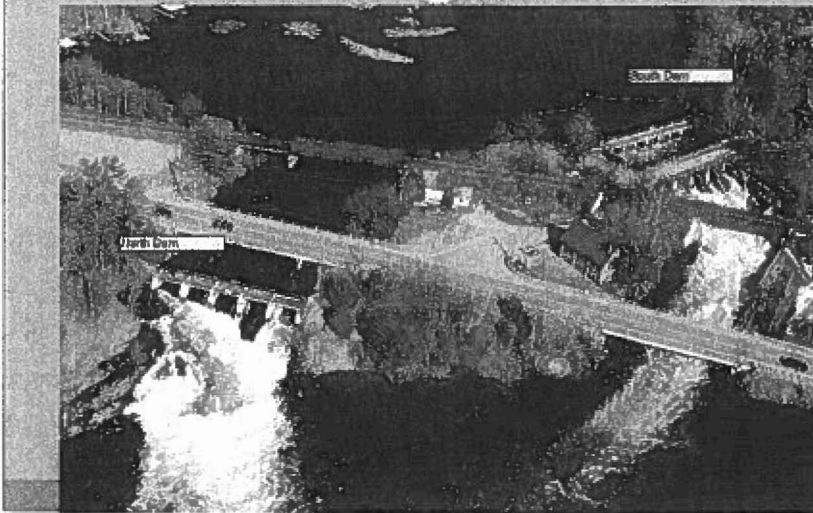
Bala Falls Power Station

AN ALTERNATIVE FOR CONSIDERATION

Objective

Work collaboratively with Council,
in a positive and unifying fashion,
to secure the optimal solution
for the Bala Falls Power Station

The Site

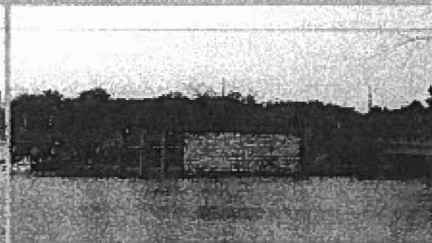


Current Scenario

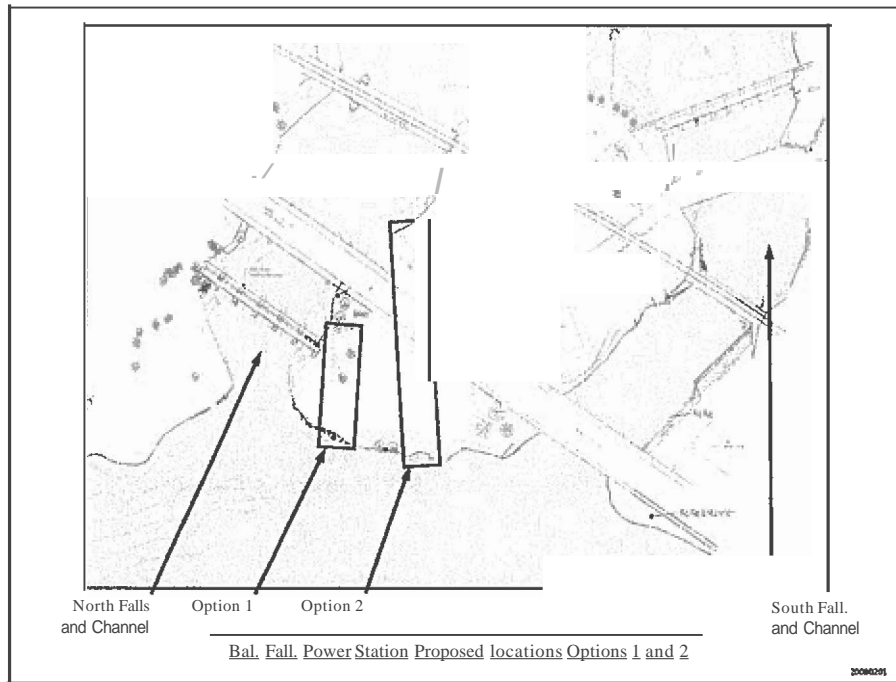
- Swift River Energy Limited (SREL) has presented two options:



Option 1: Initial concept, immediately adjacent to the North Falls



Option 2: Revised concept, incorporating both MNR and District land



Principal Concerns

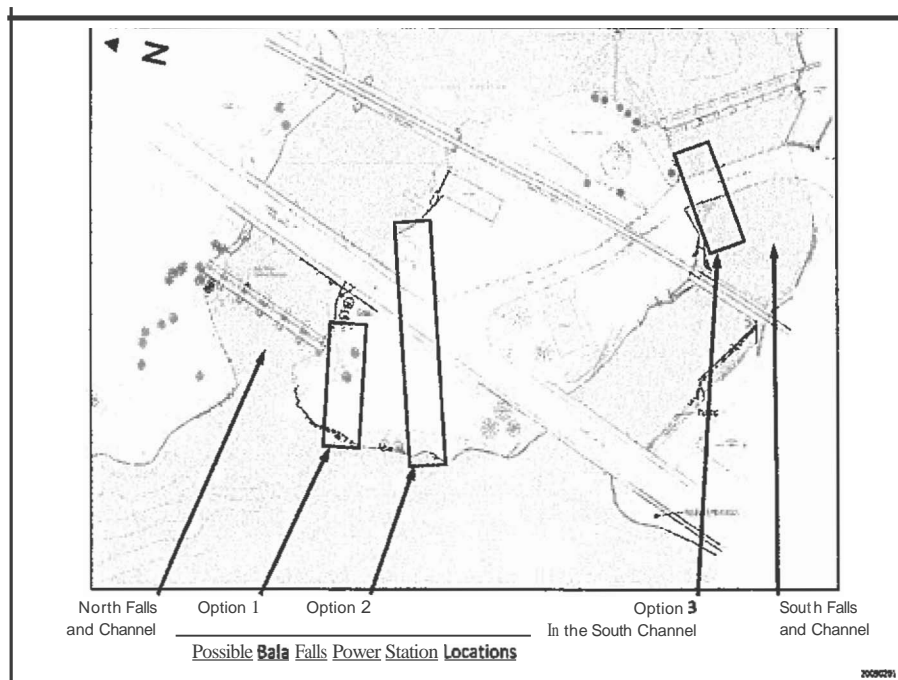
- **Dangerously fast intake water adjacent to town docks**
And bright orange safety booms
- **Highly unattractive safety and structural intrusions**
Which are not reflected in SREB's artist's renderings
- **Safety fencing along the North Channel and the lookout platform**
- **50'-wide concrete intake between railway bridge and highway**
- **33'-wide, 18'-high steel gate and 50'-wide, 20'-high retaining wall facing the Moon River**
And destruction of natural rock formations and shoreline vegetative buffer
- **Devastating to town's beauty and tourism**

Another Option

- These concerns would all be eliminated by:

Option 3

- Utilize the north side of the South Channel
 - Keeps the dangerous fast water where it is now
 - No fences required along the North Channel
 - Not visible from the Moon River or from Bala Bay
 - Maintains the required spillway for the spring freshet



This is the Bala Falls Road bridge over the South Channel, looking north to Sala Bay

Challenge: To maximize the power generated, the "draft tube" (carrying the water exiting the turbine) would need to extend down to the Moon River

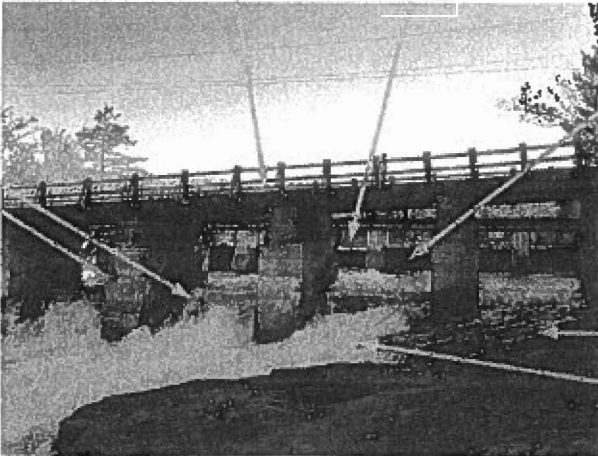
Opportunity: Aging bridge would be rehabilitated "in part. The project - bridge span would be reduced (due to power house) and bridge supports could be eliminated

Benefit: The water would continue to flow through the South Channel, so there would be no new danger of fast water near the town docks

The power station would likely be only at the left side of this channel

Challenge: Riparian (shoreline) rights may need to be obtained from adjacent land-owners

Challenge: Minimize the obstruction to the South Channel, to accommodate the spring runoff (freshet)



Option 3
Power Station In the South Channel (and not visible from the Moon River or Bala Bay)

NOT SCENIC: Much of the South Channel (behind where this picture was taken from) is ugly concrete, the rusty railway bridge, and the underside of the highway bridge

Principal Advantages

- **The south channel is a safer location**
 No dangerous water intake near the town docks
 No dangerous 18" platform at the Moon River
- **Power Station would be hidden in a "less scenic" location**
 Invisible to tourists and residents of the Moon River and Bala Bay
 No new safety boom adjacent to the town docks
 No safety fence around the North Channel or lookout
- **No need for the highway to be shutdown or constricted during construction**
- **Saves the taxpayer the cost of reconstructing the Bala Falls Road bridge over the South Channel**

What is the Ask of Council?

- That an assessment of the South Channel Option 3 be conducted to determine if this is a viable alternative that can be put forward for the benefit of the community
 - Including a thorough examination of the condition and life expectancy of the Bala Falls Road bridge
- For Council's support as we discuss policy issues and alternative solutions with our provincially-elected representatives

Conclusion

- We are confident that Option 3 is a unifying solution that balances the needs of the community with Ontario's need for clean energy
- Thank you for your time and attention
- Please contact us anytime
 - Alice Murphy (Save The Bala Falls): abmurphy@rogers.com
 - Jeff Mole (Bala Falls Community Association): bala.falls@live.ca

- k. Report from the Clerk Re: United Counties of Stormont, Dundas and Glengarry Resolution - Indigent Funerals. A copy of the report is attached.

Councillor Arney requested the following resolution be considered regarding indigent funerals.

Resolution Number *COW-14-14/01/09*

Councillor Arney - Councillor Hare: Be it resolved that the Committee of the Whole recommend to Township Council that the Township of Muskoka Lakes supports the resolution regarding indigent funerals passed by the United Counties of Stormont, Dundas and Glengarry on December 15, 2008.

Carried.

13. New and Unfinished Business

- a. Review of Township Strategic Plan. A copy of the Strategic Plan is attached.

Committee and Senior Staff reviewed the goals and achievements of the Township Strategic Plan. Amendments were made to the plan to update and revise the goals and objectives. Changes will be made and the final version of the Strategic Plan will be presented at the February 3, 2009 Council meeting for approval.

Senior Staff were requested to provide input on target dates. The Treasurer outlined the 2009 budget plan.

14. Information Items

- a. List of responses from circulation of Township of Muskoka lakes resolution regarding MPAC.
- b. Hekkla Community Centre Meeting Minutes - October 20, 2008.
- c. Foot's Bay Community Centre Meeting Minutes - November 6, 2008.
- d. Port Carling Memorial Community Centre Meeting Minutes - November 11, 2008.
- e. Raymond Community Centre Meeting Minutes - October 2, 2008 and November 4, 2008.
- f. Muskoka Lakes Library Board Meeting Minutes - October 7, 2008.
- g. Correspondence from Keith Davidson Re: Township Council Resolution C-14-21/10108 - North Bata Falls.

Mayor Pryke provided Committee with an update on the independent Heritage Assessment being carried out on the Bala Falls and indicated that the South Falls will be included in this report. Copies of this report will be provided to the local libraries and museums.

)
Mayor Pryke confirmed that she would inform Mr. Davidson accordingly.

- h. Correspondence from the Ontario Visual Heritage Project Re: Muskoka Visual Heritage Project DVD.

Councillor Arney requested that this DVD be made available at the Visitor Information Centre. Mayor Pryke advised that she has a copy of the DVD for viewing.

- i. Occupational Health and Safety Committee Minutes - September 18, 2008.

15. Committee in Closed Session

16. Adjournment

- a. Consideration of a resolution to adjourn.

Resolution Number COW-15-14/01/09

Councillor Grady - Councillor Ellis: Be it resolved that this meeting adjourn at 2:40 p.m. and the next regular meeting of the Committee of the Whole will be held on Wednesday, February 4, 2009 at 9:00 a.m. or at the call of the Chair in the Council Chambers, Municipal Office, Port Carling.

Carried.

Mayor Susan Pryke, Chair

Cheryl Mortimer, Clerk

R. Keith Davidson
1161 Dudley Rd.
P.O. Box 655
Bala, Ont. POB 1AO

Ms. Cheryl Mortimer
Clerk
Township of Muskoka Lakes
P.O. Box 129
1 Bailey Street
Port Carling, Onto POB UO

December 9, 2008

Re: Township of Muskoka Lakes, Council
Resolution c-14 21110/08

Dear Ms. Mortimer:

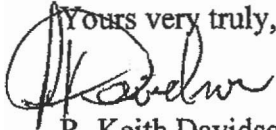
Further to the above Council Resolution (copy enclosed) and Motion carried on October 21, 2008, I am writing to request that consideration be made to amend item 1 of the Resolution.

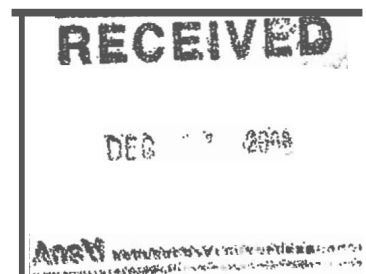
I am recommending that the wording of item 1 only be amended to read as follows:

- 1) the heritage value of the North Bala Falls and the South Rala Falls and any related heritage impact the Hydro Generation Station may have on the falls, and that

What procedures are required to get this motion before council? Is it possible to place **this** on your agenda for the next council meeting?

If you require any further information regarding this matter you may reach me at (416) 497-0166.

Yours very truly,

R. Keith Davidson



14.g.



COUNCIL MEETING

DATE: 21 Oct 2008

RESOLUTION NUMBER: C-14 -21/10/08

MOVED BY: Mary Grady

SECONDED BY: Brian Hare

BE IT RESOLVED THAT: the Council of the Township of Muskoka Lakes recommends to the Ministry of Natural Resources. and Swift River Energy that the environmental screening for the hydro project at the North Bala Falls include:

- 1) the heritage value of the North Bala Falls and any related heritage impact the hydro generation station may have on the falls, and that
- 2) the environmental screening process take into consideration the **potential** impact that the proposed construction may have on Bala's economy, including its important winter economy by addressing safe snowmobile movement around the construction site, by investigating alternative water crossings of Bala Bay.

RECORDED VOTE:

NAYS YEAS

COUNCILLOR ARNEY
COUNCILLOR DAVIDSON
COUNCILLOR DENYAR
COUNCILLOR ELLIS
COUNCILLOR GRADY
COUNCILLOR HARE
COUNCILLOR **MARTIN**
COUNCILLOR THOMPSON
COUNCILLOR **WALLACE**
MAYOR PRYKE

MOTION DEFEATED (1
Mon ON CARRIED [X]

TOTALS

SUSAN PRYKE
MAYOR

Resolution Number: C-13-21/10/08

Councillor Wallace - Councillor Denyar: Be it resolved that the Township of Muskoka Lakes requests the Ministry of Health and Long Term Care to retain land ambulance dispatching services in the District of Muskoka;

AND THAT the Ministry of Health and Long Term Care be requested to investigate the technical options and improvements for Muskoka to receive accurate and timely data for reporting and strategic planning and the ability to meet the future reporting needs of the newly legislated Response Time Standard Regulation;

AND THAT the Ministry of Health and Long Term Care involve all affected stakeholders in Muskoka in this process.

Carried.

- b. Consideration of a resolution Re: Bala Falls Heritage Value. *Refer to Item 5.a Delegations and Petitions.*

Mayor Pryke provided a letter from the Township's Heritage Consultant outlining potential mechanisms to preserve the heritage value of Bala Falls, a copy of which is attached. She indicated that as part of the Environmental Screening Process, a heritage impact assessment of the falls could be included.

Resolution Number: C-14-21/10108

Councillor Grady - Councillor Hare: Be it resolved that the Council of the Township of Muskoka Lakes recommends to the Ministry of Natural Resources, and Swift River Energy that the environmental screening for the hydro project at the North Bala Falls include:

- 1) the heritage value of the North Bala Falls and any related heritage impact the hydro generation station may have on the falls, and that
- 2) the environmental screening process take into consideration the potential impact that the proposed construction may have on Bala's economy, including its important winter economy by addressing safe snowmobile movement around the construction site, by investigating alternative water crossings of Bala Bay.

Carried.

- c. Consideration of a resolution Re: Investing in Ontario Act Funding

Councillor Arney requested that the Walker's Point Community Centre/Fire Hall parking lot be completed using a portion of the funding made available to the Township through the Investing in Ontario Act.

The CAO advised that this project could be completed using these funds. He suggested a cost between \$5,000.00 and \$10,000.00 to complete the parking lot.

Council supported Councillor Arney's request and passed the following resolution.



Agenda Reference 1Db.

COUNCIL MEETING

DATE: 21 Oct 2008

RESOLUTION NUMBER: ~~C-14~~ ^{21/10} ~~10/10/08~~

MOVED BY:

Maurice Grady

SECONDED BY:

Brian Hare

BE IT RESOLVED THAT: the Council of the Township of Muskoka Lakes recommends to the Ministry of Natural Resources, and Swift River Energy that the environmental screening for the hydro project at the North Bala Falls include:

- 1) the heritage value of the North Bala Falls and any related heritage impact the hydro generation station may have on the falls. and that
- 2) the environmental screening process take into consideration the potential impact that the proposed construction may have on Bala's economy, including its important winter economy by addressing safe snowmobile movement around the construction site, by investigating alternative water crossings of ~~the Moon River.~~ *Bala Bay*

Bala Bay
MBO BA.

RECORDED VOTE: NAYS YEAS

- COUNCILLOR ARNEY
- COUNCILLOR DAVIDSON
- COUNCILLOR DENYAR
- COUNCILLOR ELLIS
- COUNCILLOR GRADY
- COUNCILLOR HARE
- COUNCILLOR MARTIN
- COUNCILLOR THOMPSON
- COUNCILLOR WALLACE
- MAYORPRYKE

MOTION DEFEATED
MOTION CARRIED

TOTALS

Susan Pryke
MAYOR

5. **Delegations and Petitions**

- a. Receipt of Petition Re: Request that the Township of Muskoka Lakes designate the Bala Falls area as heritage. *Refer to item to.b. New and Unfinished Business.*

Mayor Pryke advised that a 40 page petition was received requesting that the Bala Falls area be designated as heritage. A copy of the petition is attached.

- b. Gord Durnan, Chair, Muskoka Community Foundation, attended the meeting at 9:43 a.m. Re: Muskoka Community Foundation Introduction.

Gord Durnan made a presentation to Council regarding the new Muskoka Community Foundation, a copy of which is attached.

The Muskoka Community Foundation is a registered charity that will build permanent endowments to invest in Muskoka. The Muskoka Community Foundation has signed a partnership agreement with the Toronto Community Foundation to manage investments. Also, through the Muskoka Community Foundation, smaller Muskoka charities can access professional funds management.

Mr. Duman announced that the Foundation recently received its first donation from the Lawson Foundation. As well, an application has been submitted to the Ontario Trillium Foundation to assist with initial start up costs. The Foundation is currently looking for volunteers to join the board.

In response to Mr. Duman, Mayor Pryke advised that a resolution to support the Muskoka Community Foundation will be considered at an upcoming Council meeting.

- c. Ali Giffen, Municipal Relations Representative and Valerie Jones, Account Manager, Municipal Property Assessment Corporation attended at 10:15 a.m. Re: Re-assessment. A copy of the presentation is attached.

Ali Giffen and Valerie Jones presented to Council the roles and responsibilities of the Municipal Property Assessment Corporation (MPAC), the Ontario Property Assessment Process and Legislation Changes, Customer Service Enhancements and Requests for Reconsideration.

Ms. Giffen explained the new AboutMyProperty feature on the MPAC website to help enhance customer service. She also provided a summary of the Township of Muskoka Lakes' recent property re-assessment values including notice details.

Ms. Jones answered questions for Council regarding current value assessment rates give the current economy.

6. **Business Arising from the Minutes**

- a. Report from the Clerk Re: Action Items from Committee Meetings. A copy of the report is attached.

Resolution Number: C-7-21/10/08

Councillor Ellis - Councillor Hare: Be it resolved that the following recommendations be enacted for action:



THE CORPORATION OF THE TOWNSHIP OF MUSKOKA LAKES

MINUTES - COUNCIL MEETING Tuesday, October 21, 2008

A Regular Meeting of Council was held on Tuesday, October 21, 2008, at 9:00 a.m. in the Council Chambers, Municipal Offices, Port Carling, Ontario.

PRESENT:

Mayor S. Pryke

Councillors:

Dianne Davidson
Liz Denyar
Karen Ellis
Ian Wallace
Mary Grady
Stewart Martin
Brian Hare
Patricia Arney

Officials Present:

W. Schmid - CAD
C. Mortimer - Clerk
J. Stevens - Treasurer
D. Pink - Senior Planner
T. Guthrie - Administrative Assistant, Clerk's Department
L. Forbes - Administrative Assistant, Planning Department

1. Call to Order

- a. Mayor Pryke called the meeting to order at 9:04 a.m.

2. Adoption of Agenda

- a. Consideration of a resolution to adopt the agenda.

Resolution Number: C-1-21/10/08

Councillor Ellis - Councillor Davidson: Be it resolved that the Council Meeting agenda dated October 21, 2008 be adopted as amended to include the following items:

- 10.b. - Consideration of a resolution regarding the Bala Falls Heritage Value.
- 10.c. - Consideration of a resolution regarding 110A Funding.
- 12.a. - Council in closed session for personal matters.

Carried.

3. Disclosure of Interest

- a. None

4. Receipt / Adoption of Minutes

- a. Consideration of a resolution to adopt the Council Meeting minutes held on September 30, 2008.

municipal property and provide a service or thing that the Township considers necessary or desirable for the benefit of the Public; and

WHEREAS it is deemed to be in the public interest to enter into the cost sharing agreement to construct the expanded public docking facility at the Windermere Wharf;

NOW THEREFORE BE IT RESOLVED THAT the Mayor and Clerk be authorized to enter into a cost sharing agreement for the construction of the expanded Windermere Dock facilities at a total municipal cost of \$66,000, subject to final review and approval of the agreement by the Township's solicitor, provided the finger docks are four feet in width.

YEAS

<u> X </u>

<u> X </u>
<u> X </u>

<u> X </u>
<u> X </u>

<u> 5 </u>

Defeated.

Councillor Martin left the meeting at 2:50 p.m.

- 7. Report from the CAO Re: Swift River Energy, Bala Falls North Dam, Hydro Generating Facility Proposal. A copy of the report is attached.

The CAO advised that Swift River Energy is seeking Township support for Swift River Energy to utilize District of Muskoka land for the development of the Hydro Generating Facility in Bala.

Swift River Energy will be holding a public information meeting on August 13, 2008 at the Bala Community Centre.

Resolution Number: C-29-08/07/08

Councillor Arney - Councillor Denyar: Be it resolved that the Council of the Township of Muskoka Lakes, concurs "in principle", that the District Municipality of Muskoka consider the use of the District owned lands, located on the south side of the Bala Falls North Dam, by Swift River Energy, as part of a new hydroelectric generating facility, all subject to further public input and successful completion of the required Environmental Screening.

Carried

- 8. Report from the CAO Re: Award of 2009 Joint Development Charges Study. A copy of the report is attached.



Agenda Reference 2a.

COUNCIL MEETING

DATE: 21 Oct 2008

RESOLUTION NUMBER: C. (²¹ ~~10/10~~ /08

BE IT RESOLVED THAT: the Council Meeting agenda dated October 21, 2008 be adopted as amended to include the following items:

- 10b. - Consideration of a resolution regarding the Bala Falls Heritage Value.
- 10c - Consideration of a resolution regarding IFO A Funding.
- 12a. - Council in closed session for personal matters.

RECORDED VOTE:	NAYS	YEAS
----------------	------	------

- COUNCILLOR ARNEY
- COUNCILLOR DAVIDSON
- COUNCILLOR DENYAR
- COUNCILLOR ELLIS
- COUNCILLOR GRADY
- COUNCILLOR HARE
- COUNCILLOR MARTIN
- COUNCILLOR THOMPSON
- COUNCILLOR WALLACE
- MAYOR PRYKE

MOTION DEFEATED	[]
MOTION CARRIED	[X]

TOTALS

Susan Pryke

 MAYOR



✓
- Swift River
- 1/2 m - 1/2 m

Agenda Reference 9a7.

COUNCIL MEETING

DATE: 08 Jul 2008

RESOLUTION NUMBER: C-29-08/07/08

MOVED BY:

Patricia Arney

SECONDED BY:

Elyse Denyar

BE IT RESOLVED THAT: the Council of the Township of Muskoka Lakes, concurs "in principle", that the District Municipality of Muskoka consider the use of the District owned lands, located on the south side of the Bala Falls North Dam, by Swift River Energy, as part of a new hydroelectric generating facility, all subject to further public input and successful completion of the required Environmental Assessment. *Screening*

RECORDED VOTE: NAYS YEAS

- COUNCILLOR ARNEY
- COUNCILLOR DAVIDSON
- COUNCILLOR DENYAR
- COUNCILLOR ELLIS
- COUNCILLOR GRADY
- COUNCILLOR HARE
- COUNCILLOR MARTIN
- COUNCILLOR THOMPSON
- COUNCILLOR WALLACE
- MAYOR PRYKE

MOTION DEFEATED
MOTION CARRIED

[1]
[14]

TOTALS

Austin Pryke



COUNCIL
AGENDA REPORT

TO: Mayor Pryke and Members of Council

MEETING DATE: July 8, 2008

SUBJECT: SWIFT RIVER ENERGY, BALA FALLS NORTH DAM, HYDRO GENERATING FACILITY PROPOSAL

RECOMMENDATION:

BE IT RESOLVED THAT the Council of the Township of Muskoka Lakes, concurs "in principle", that the District Municipality of Muskoka consider the use of the District owned lands, located on the south side of the Bala Falls North Dam, by Swift River Energy, as part of a new hydroelectric generating facility, all Subject to further public input and successful completion of the required Environmental Assessment.

APPROVALS:

	Date	Signature
Submitted By: Walt Schmid, CAO	<u>04/07/08</u>	<u>Original signed by W. Schmid</u>

ORIGIN: Swift River Energy

BACKGROUND:

1. In 2004 the MNR initiated a Competitive Site Release process as part of the renewable energy program established by the province of Ontario. Based on a screening process a number of sites were identified across the province, including the Bala Falls North Dam site. In the case of this site the screening process verified that Crown land was available at the dam to accommodate a water power facility. One of the benefits of this site was the short distance of transmission lines required to connect to the hydroelectric grid, therefore mitigating the impact on private land.
2. A Request for Proposals was issued by the MNR. Swift River Energy was chosen as the Applicant of Record. Swift River Energy is currently proceeding with the Environmental Assessment (EA) process and will seek all required multi-agency approvals and authorizations.

3. Swift River Energy undertook a Public Meeting in the 2007. Feed back from the meeting was gathered and analyzed. Swift River Energy will be holding a second public meeting reflecting public input later this summer.
4. As identified above, there is Crown land available on the south side of the North Dam to accommodate a hydroelectric water power facility, however to best address a number of concerns raised at the first public meeting, Swift River Energy is seeking to utilize some of the District of Muskoka owned lands situated immediately to the south of the Crown lands, at Bala Falls North Dam.
5. Swift River Energy is seeking the Township of Muskoka Lakes concurrence "in principle", as the lower tier municipality, prior to approaching the District of Muskoka for the use of a portion of the Districts lands.
6. Concurrence "in principle" by the township is not intended as an endorsement of the project which has yet to complete the EA process. Concurrence "in principle" is intended to provide Township support of Swift River Energy's request to the District of Muskoka to utilize a portion of District owned lands, if so required for the most appropriate configuration of a hydroelectric power facility. All township support will of course be subject to the successful completion of the Environmental Assessment Process and all other approvals.

FINANCIAL: None

5. Delegations and Petitions

- a. Mr. Gordon Carlton attended at 9:00 a.m. Re: Maintenance of Fogo Street.

Mr. Gordon Carlton, representing residents on Fogo Street, attended the meeting regarding the maintenance of a portion of Fogo Street. A copy of the presentation is attached. They are requesting that summer maintenance on Fogo Street be extended the entire length.

Staff was requested to review this matter and report back to Committee.

- b. Mr. Ian Baines, Project Manager, Mr. John Wildman, Vice Chair, Swift River Energy Limited and Murray McFarlane, Hatch Energy attended at 9:30 a.m. Re: Update on the Bala North Dam Project.

Mr. Ian Baines, Swift River Energy Limited, provided a background of his company and the experience he and his colleagues have in the energy industry in Ontario. Mr. Baines advised that a Public Information Session will be held at the Bala Community Centre on Wednesday, August 29, 2007, and a meeting with the Moon River Property Owners' Association on Saturday September 1, 2007, to address public concerns, answer questions and collect input relating to this project.

He confirmed that Swift River Energy was awarded the Applicant of Record status by the Ministry of Natural Resources in 2006 for hydroelectric development at the North Bala Dam. They are currently conducting the first stage of the Environmental Screening Process. There are several agencies that must provide approvals to complete this project.

Mr. Baines explained that their aim is to have zero impact in the community once complete, although there will be some disruption during construction. He elaborated on the type of construction and design of the dam. The water flow will be smooth as it is regulated by computers and there will also be many safety provisions with the water intake and outflow. The main priority is to build something that fits in with the local scenery, make it look like it has always been there and not restrict use or access of the falls.

Mr. Murray McFarlane from Hatch Energy provided handouts of the presentation boards which are part of the Public Information Session, a copy of which is attached. He indicated that they will hold another meeting in 2008 to share with the community the results of the study.

The Committee questioned the delegates on the design of the dam and viewing platform, impact on use of the falls, water flow levels, the municipality's involvement in the process, and if the project adhered to Muskoka's Water Management Plan. Committee members stressed the importance of the design, construction and water flow in relation to tourism and the beauty and use of the falls.

The Committee thanked the delegation for attending the meeting and explaining the nature of their project.

- c. Minutes of the Planning Council Meeting held on January 5, 2005.

In response to Councillor Fairfield, Mayor Pryke confirmed that a response had been received from the Ministry of Natural Resources as a result of the Township resolution regarding the potential hydro development at the Bala North Dam (item 6.b. of the minutes).

Resolution Number: e-3-01/24/05

Councillor Grady - Councillor Goltz: Be it resolved that the Minutes of the Planning Council Meeting held on January 5, 2005, be adopted and approved as printed.

Carried.

- d. Minutes of the Planning and Community Development Committee Meeting held on January 6 , 2005.

Councillor Ellis reviewed the minutes for Council.

Resolution Number: e-4-01/24/05

Councillor Martin - Councillor Fairfield: Be it resolved that the Minutes of the Planning and Community Development Committee Meeting held on January 6, 2005, be adopted and approved as printed.

Carried.

4. Disclosure of Pecuniary Interest

5. Public Meeting Portion of Council Zoning Amendment Applications

- a. By-law 2004-192, ZBA-79/04, Marten, Part of Lot 16 & 17, Concession 12 (Medora), Parts 1 & 2, Plan 35R-4889, Carlingford Road, Roll # 4-19-001-01. A copy of the report was attached to the agenda.

Mr. Pink explained the nature and location of the property/application.

Notice of Public meeting was circulated 31 days prior.

Submissions received as follows:

- i) Letter from the District Municipality of Muskoka, Planning and Economic Development Department indicating they had no objection to the application. A copy of the letter is attached.
- ii) Letter was received from Hugh Nichols. Mr. Pink read the letter aloud. a copy of which is attached.

THE CORPORATION OF THE TOWNSHIP OF MUSKOKA LAKES

MINUTES - COUNCIL MEETING

Monday, January 24, 2005

A Regular Meeting of Council was held on Monday, January 24, 2005, at 9:00 a.m., in the Council Chambers, Municipal Offices, Port Carling, Ontario.

PRESENT:

Mayor Susan Pryke

Councillors:

Karen Ellis

Ian Wallace, left at 12:25 p.m.

Don Goltz

Mary Grady

Brian Hare

Stewart Martin, left at 12:25 p.m.

Ruth Nishikawa

Adele Fairfield

Officials Present:

J.W. McDivitt - Chief Administrative Officer

S. Fahner - Director of Planning

L. Troup - Public Works Superintendent

D. Pink - Development Planner

C. Mortimer - Clerk

C. Minty - Administrative Assistant, Planning Dept.

Regrets:

Nancy Thompson

1. Meeting Called to Order

- a. The meeting was called to order by Mayor Pryke at 9:00 a.m.

Mayor Pryke noted additional correspondence to be provided to members of Council for their information as follows:

Correspondence from the Muskoka Lakes Chamber of Commerce supporting the Port Carling Communities in Bloom proposed construction of a parkette at the corner of Ferndale Road and District Road #118.

Response from the Ministry of Natural Resources regarding the proposed hydro generation project at the Bala North Dam.

News Release from the Association of Municipalities of Ontario regarding the Community Reinvestment Fund allocation to municipalities.

- Correspondence from Mark Gidley and Walter Huff regarding the proposed streetscape project in Bala.

2. Delegations

- a. Duncan Ross attended at 11:00 a.m. Re: Municipal Office Addition/Renovation Project.

Mr. Ross reviewed the proposed floor, roof and elevation plans, He answered a number of questions for Council confirming that he would review the water pressure situation. The drawings would be available at the Township office for inspection. He advised that the proposed **works** are estimated to cost \$770,000.00. The project timeframe will be approximately five months.

b. Potential Hydro Development - Bala North Dam - Moon River

Please refer to item 10.b. of the Management and Services minutes dated January 4, 2005.

Resolution Number: PC-7-05/01/05

Councillor Wallace - Councillor Thompson: Be it resolved that the Township of Muskoka Lakes advise the Ministry of Natural Resources that any potential development at the Bala North Dam operates in accordance with the operating ranges of Lake Muskoka and Bala Reach as specified in the Muskoka River Water Management Plan;

And further that any potential facility also consider the need for scenic flows, public access for traditional uses and continuity of business in the local area;

And further that a member of the Public Advisory Committee for the Muskoka River Water Management Plan be included on the review team for the proposed development.

Carried.

c. Bear Wise Program

Mayor Pryke reported that Jan MacDonald, of the Ministry of Natural Resources had encouraged municipalities to implement the Bear Wise Program so funding would be available in the future for bear proof garbage containers, etc.

Ms. Mortimer informed Council there are three components to the funding. Bear Hazard Assessment, Education and Awareness and Prevention. If two of the three components were completed, funding would be available up to \$15,000.00. She had spoken with the Town of Bracebridge who had hired a summer student, and with the Town of Gravenhurst who hired a consultant to complete the components. Mr. McDivitt and Ms. Mortimer both felt that a consultant could be hired to complete the first two components. Council agreed.

Resolution Number: PC-6-05/01/05

Councillor Wallace - Councillor Nishikawa: Be it resolved that the Township of Muskoka Lakes submit a Bear Wise Program Community Funding Application to the Ministry of Natural Resources for the completion of a Bear Hazard Assessment and Action Plan and an Education and Awareness Plan.

Carried.

d. Devens, Sunbeam Island, (4-24-015)

Mr. Fahner explained the history of the application. He noted that an Ontario Municipal Board hearing is scheduled for January 21 and 22, 2005. A letter was received from Planscape indicating the use of the second storey of the boathouse is legal with a sworn declaration from the previous owner.

-)
- g. Correspondence from the City of Pickering Re: Request for support of resolution to lower the voting age. A copy of the correspondence is attached for Committee's information.

This correspondence was noted and filed.

- h. Correspondence from the Township of Wellington North Re: Request for support of resolution regarding the Community Reinvestment Fund and the gasoline tax. A copy of the correspondence is attached for Committee's information.

This correspondence was noted and filed.

10. Other Business

- a. Snow-plowing in Bala / Port Carling

This item was referred from item 11.c. of the January 3, 2005 Council meeting minutes.

Councillor Grady requested the snow be cleared for safe passage of pedestrians through Bala from the Muskoka Lakes Sports Park to Windsor Park.

Councillor Wallace also commented on snow-clearing in Port Carling.

The Public Works Superintendent explained that due to the recent weather conditions of ice and excessive accumulation of snow, the roads department would be removing snow in both Bala and Port Carling commencing the following morning. He would also contact the District of Muskoka with regard to plowing in both towns.

It was the consensus of Committee that snow removal would take place from the Bala Post Office to the south entrance of Bala Falls Road.

- b. Potential Hydro Development - Bala North Dam – Moon River

Chair Martin reported on the December 8, 2004 Public Advisory Committee (PAC) meeting of the Muskoka River Water Management Plan wherein he read aloud the following resolution #20 which was passed at that time:

"The Public Advisory Committee (PAC) for the Muskoka River Water Management Plan resolves that any potential development at the Bala North Dam operates in accordance with the operating ranges of Lake Muskoka and Bala Reach as specified in the Muskoka River Water Management Plan. Be it also resolved that any potential facility also consider the need for scenic flows, public access for traditional uses and continuity of business in the local area. Be it further resolved that a PAC member be included on the review team for the proposed development."

It was the consensus of Committee that the Township consider a similar resolution at the January 5, 2005 Planning Council meeting.



THE CORPORATION OF THE TOWNSHIP OF MUSKOKA LAKES

PLANNING COUNCIL MEETING

DATE: January 5, 2005

RESOLUTION NUMBER: PC- 5/01/05

MOVED BY:

SECONDED BY:

Nancy Thompson

BE IT RESOLVED THAT: the Township of Muskoka Lakes advise the Ministry of Natural Resources that any potential development at the Bala North Dam operates in accordance with the operating ranges of Lake Muskoka and Bala Reach as specified in the Muskoka River Water Management Plan;

And further that any potential **facility** also consider the need for scenic flows, public access for traditional uses and continuity of **business** in local area;

And further that a member of the Public Advisory Committee for the Muskoka River Water Management Plan be included on the review team for the proposed development.

RECORDED VOTE:

NAYS

YEAS

- COUNCILLOR ELLIS
- COUNCILLOR FAIRFIELD
- COUNCILLOR GOLTZ
- COUNCILLOR GRADY
- COUNCILLOR HARE
- COUNCILLOR MARTIN
- COUNCILLOR NISHIKAWA
- COUNCILLOR THOMPSON
- COUNCILLOR WALLACE
- MAYOR PRYKE

MOTION REFERRED []

MOTION TABLED []

MOTION DEFEATED []

MOTION CARRIED [x]

TOTALS

Susan Pryke
MAYOR

10. Mayor's Report

- a. Mayor Pryke reported on the following items. A copy of the report was attached.

District Corporate and Emergency Services Committee report - delegation from various companies attended regarding Hauled Sewage tipping fees - District increase in haulage fees, and asking them to pay in winter months. Septic Haulers trucks are not full in the winter, and want a gallonage rate, rather than by the truck. The District revised the fee structure to accommodate hauler's concerns.

211 Community Connection - Muskoka - Healthy Community Coalition - has requested a grant to set up database 211 service, similar to 911, to provide 3 digit access to information and referral for community, social, health, and government services.

Visit from Township of Seguin, David Conn, the Reeve of Seguin, along with Director of Public Works and financial committee to seek input from the Township to discuss best road practices.

Councillor Fairfield will replace Councillor Martin as Council Liaison for the Muskoka lakes Chamber of Commerce.

Commented on Municipal World article about councillors.

Will be attending Moose FM radio station on December 16 - Toy Drive.

11. Councillors' Reports

- a. Councillor Grady reported on the following items.

Correspondence received from Marie Carson accolade re: Greig Young, Bala Arena Manager.

Steering Committee for Bala's Strategic Plan - power point presentation refers to document #6 - Urban Design.

Muskoka lakes Chamber of Commerce - in response to an increase in vandalism invited input from Ted Smith, Bracebridge a.p.p. detachment, and Gravenhurst Neighbourhood Watch.

- b. Councillor Martin reported on the following items.

- District Water and Sewer local improvement build-out initiative -Todholm subdivision area residents.

Muskoka River Water Management Committee - Bala north dam at Bala Falls, consideration for hydro power development, deadline for expressions of interest is December 17, 2004.

In response to concern expressed from Councillor Grady, Councillor Martin recommended contacting Patricia Arney regarding the proposed hydro power development.

- c. Councillor Fairfield reported on the following items.

District Community Services Committee report - Pine Accreditation Status Report was highly complimentary with respect to the level of quality care maintained by staff inspite of building a new building, and only criticism was governance.

The Pine's Therapy pool to continue in operation until the end of April 2005 - cost an additional \$17,500.00. to keep pool open for the public.

new Commissioner of Community Services is Sandy Adamson.

3. Disclosure of Interest

- a. Councillor David Margesson, disclosed a pecuniary interest with respect to item 9.a.2. as he is a director of the Muskoka Music Festival board.
- b. Councillor Ron Brent, disclosed a potential pecuniary interest with respect to item 9.a.4. (Re: North Bala Falls Small Hydro Project) as his company, Brent Quarry could be a potential supplier for the project.

4. Receipt/Adoption of Minutes

- a. Consideration of a resolution to adopt the Council Meeting minutes held on September 14,2010.

Resolution Number: C-3-05/1 0/1 0

Councillor Margesson - Councillor Denyar: Be it resolved that the Council Meeting minutes held on September 14,2010 be adopted.

Carried.

- b. Consideration of a resolution to receive the draft Committee of the Whole Meeting minutes held on September 15, 2010.

Resolution Number: C-4-05/1 0/1 0

Councillor Denyar - Councillor Davidson: Be it resolved that the draft Committee of the Whole Meeting minutes held on September 15, 2010 be received.

Carried.

- c. Consideration of a resolution to receive the draft Planning Committee Meeting minutes held on September 16, 2010.

Councillor Thompson reviewed the minutes.

Resolution Number: C-5-05/1 0/1 0

Councillor Denyar - Councillor Davidson: Be it resolved that the draft Planning Committee Meeting minutes held on September 16, 2010 be received.

Carried.

Resolution Number: C-18-05/10/10

Councillor Thompson - Councillor Hare: Be it resolved that Clause 5 of Human Resource Policy C-HR-02 be amended to read: "Senior Management Team members will ensure that any vacancies, which occur in their departments, are reviewed on the basis of priorities within the department before any recruitment action is taken. All recruitment and hiring for personnel within Value Groups 2 through 10 are at the discretion of the CAO, all recruitment and hiring for personnel within Value Groups 10A through 15 will be on recommendation of the CAO to Township Council."

Carried.

4. Report from the CAO Re: Update - North Bala Falls Small Hydro Project (to be provided at the meeting).

Councillor Brent disclosed a potential interest as he is an owner of Brent Quarry (see item 3.b.). He left the Council table and did not participate in the discussion or vote on this matter.

The CAO reviewed the report updating Council with Swift River Energy Limited's responses to the Township's questions. He noted that questions regarding flow velocity and economic impact have yet to be answered.

Council requested the CAO to send the report and resolution to all parties previously notified.

It was the consensus of Council to postpone retaining a consultant regarding the cofferdam flow restrictions until input has been received from MNR.

Resolution Number: C-19-05/10/10

Councillor Hare - Councillor Thompson: Be it resolved that Council accept the October 5th, 2010 North Bala Small Hydro Project-Environmental Screening Review Report prepared by the Chief Administrative Officer;

And further that the Chief Administrative Officer be directed to work with Swift River Energy Limited and MNR to obtain answers to the unanswered questions identified in the report and report back to council at the November 16th Council meeting.

Carried.



Agenda Reference 9.aA.

COUNCIL

DATE: 05 Oct 2010 _____ RESOLUTION NUMBER: C- _____ .05/10/10

MOVED BY: Brian Hunt

SECONDED BY: Nancy Thompson

BE IT RESOLVED THAT Council accept the October 5th, 2010 North Bala Small Hydro Project- Environmental Screening Review Report prepared by the Chief Administrative Officer;

And further that the Chief Administrative Officer be directed to work with Swift River Energy Limited to obtain answers to the unanswered questions identified in the report and report back to council at the November 16th Council meeting.

J
 MNR 0 11
 Kd.

RECORDED VOTE:

NAYS YEAS

COUNCILLOR ARNEY	_____	__ __	
COUNCILLOR BRENT	_____	__ __	
COUNCILLOR DAVIDSON	_____	__ __	
COUNCILLOR DENYAR	_____	__ __	
COUNCILLOR GRADY, Deputy Mayor	_____	__ __	
COUNCILLOR HARE	_____	__ __	
COUNCILLOR MARGESSON	_____	__ __	
COUNCILLOR THOMPSON, Acting Deputy Mayor	_____	__ __	
COUNCILLOR WALLACE	_____	__ __	MOTION DEFEATED <input type="checkbox"/>
MAYOR ELLIS	_____	__ __	MOTION CARRIED <input checked="" type="checkbox"/>

TOTALS

__ __ Karen Ellis _____
 MAYOR



COUNCIL AGENDA REPORT

TO: Mayor Ellis and Members of Council

MEETING DATE: October 5, 2010

SUBJECT: NORTH BALA FALLS SMALL HYDRO PROJECT · ENVIRONMENTAL SCREENING REVIEW

RECOMMENDATION:

1. That Council accept the October 5th, 2010 North Bala Small Hydro Project-Environmental Screening Review Report prepared by the Chief Administrative Officer;
2. That the Chief Administrative Officer be directed to work with Swift River Energy Limited to obtain answers to the unanswered questions identified in the report and report back to council at the November 16th Council meeting.

APPROVALS:

	Date	Signature
Submitted By: Walt Schmid, CAO	<u>2010/10/05</u>	<u>Original signed by W. Schmid</u>

ORIGIN: Office of the CAD.

BACKGROUND:

On August 11th a staff report was submitted to Council at a "Special Meeting", regarding the status Swift River Energy's response to the municipality's concerns on the proposed construction of a hydro generating facility at the North Bala Falls. The Chief Administrative Office (CAO) was directed to work with Swift River Energy Limited (SREL) to obtain answers to the questions identified in the report and establish time frames in which these answers could be obtained. The CAO was directed to report back to Council at its September 15th meeting with a project status update.

By September 15th insufficient information had been provided by SREL to provide Council with an update and accordingly the previously scheduled September 18th public meeting was cancelled.

The Township and SREL have communicated frequently over the last month and a half. A telephone conference was also held with Hatch Energy. In addition a number of discussions have been held with MNR representatives. SREL has now submitted a response to the Township's August 11th report. SREL correspondence of September 22nd and September 8th is attached for information purposes as is Hatch Energy's correspondence of September 17th. The Staff report of August 11th is also appended to the report for reference purposes.

ANALYSIS:

Review of SREL September 22,2010 Correspondence

Swift River Energy's response of September 22nd addresses the items identified in the Staff Report of August 11th. Staff has reviewed this submission and provides the following comments. SREL and Hatch Energy have addressed many of the concerns identified by the municipality although a number of questions remain outstanding. Comments in bold text remain outstanding insofar as staff is concerned.

Questions:

1a: Staff considers this question to be answered.

1b: SREL and Hatch Energy have still not provided the cross section of the North Channel at the proposed cofferdam as requested in order to alleviate capacity concerns during high water levels and associated upstream flooding. Hatch has provided a technical response to the question. Correspondence received October 1st from MNR Engineer Nick Paroschy indicates that he has reviewed the information submitted by Hatch and is satisfied with the conclusion.

Township council may still wish to obtain the services of a consulting engineer to provide a review of the Hatch response and confirm that the townships concerns have been satisfied.

1c: Staff considers this question to be answered.

1d: SREL and Hatch Energy have still not provided the cross section of the North Channel at the proposed cofferdam as requested in order to alleviate capacity concerns during high water levels and associated upstream flooding. Hatch has provided a technical response to the question. Correspondence received October 1st from MNR Engineer Nick Paroschy indicates that he has reviewed the information submitted by Hatch and is satisfied with the conclusion.

Township council may wish to obtain the services of a consulting engineer to provide a review of the Hatch response and confirm that the township's concerns have been satisfied.

2a: A Flow Distribution Committee is being created by SREL to establish the aesthetic flows over the north and south dams. The Committee is expected to commence its work in mid October. This issue remains ongoing.

2b: A Flow Distribution Committee is being created by SREL to establish the aesthetic flows over the north and south dams. The Committee is expected to commence its work in mid October. This issue remains ongoing.

3a: SREL has asked the MNR to speak to the SAC in order to make representation on the Flow Distribution Committee. SREL considers this item resolved.

Representation of a SAC member on the Flow Distribution Committee would be beneficial. The Township encourages a SAC representation on the flow distribution committee. Staff considers this question answered.

4a: Heritage Value of the North Bala Falls has been determined by the Ministry of Culture. Staff considers this question to be answered.

4b: Staff considers this question to be answered.

4c: The archaeological component of the North Bala Falls project has been determined by the Ministry of Culture. Staff considers this question to be answered.

4d: The Township has not yet received a legal response to the SREL comments of September 8th regarding authority to proceed with the project under Ontario Regulation 116101. Staff considers the question unanswered until confirmed by the Township's solicitor.

5a, 5b, 5c: The economic impact study questionnaire has been circulated by SREL consultant. The study is expected to be completed in late September / early October. SREL and the Township consider this issue to be ongoing.

5d: SREL continues to offer assistance in the construction of a four season bridge and considers this issue resolved. This issue will be raised with the new council to determine if there is a municipal interest in proceeding with this bridge project.

58: SREL is open to providing a temporary traffic light at the intersection of MR #169 and Bala Falls Road.

Appropriate road closures should be approved by council for construction safety considerations, should the project proceed. The Township considers this question to be answered. If the temporary traffic signal lights are installed at the intersection of MR #169 and Bala Falls Road which is a blind corner. Staff considers this issue to be ongoing.

6a: No rock crushing will be carried out on site. Staff considers this question to be answered.

6b: SREL and Hatch Energy have still not provided the cross section of the North Channel at the proposed cofferdam as requested in order to alleviate capacity concerns during high water levels and associated upstream flooding. Hatch has provided a technical response to the question. Correspondence received October 1st from MNR Engineer Nick Paroschy indicates that he has reviewed the information submitted by Hatch and is satisfied with the conclusion.

Township council may wish to obtain the services of a consulting engineer to provide a review of the Hatch response and confirm that the township's concerns have been satisfied.

6c,6d: Staff considers these questions to be answered.

6e: Decision on the fisheries impact due to reduced flows in the North and South Channels are in DFO's jurisdiction. DFO comments will be reviewed by the MOE. The Township considers this question beyond its expertise and relies on the judgement of the DFO and MOE.

6f: A Flow Distribution Committee is being created by SREL to establish the aesthetic flows over the north and south dams. The Committee is expected to commence its work in mid October. This issue remains ongoing.

6g: Staff considers this question to be answered.

6h: Staff considers this question to be answered.

6i,6j: SREL has amended the size of the inlet structure to reduce the velocity at the inlet grates to 0.6 *m/s*. The invert elevation has been lowered an additional 7.6 m to 211.4m and the width increased from 9.5 m to 11.6 m. SREL indicates that these changes have been made to minimize frazil ice and fish mortality. SREL also indicates that this is not a regulated maximum so it may be safe to assume that the flow rates may at times be higher. Based on December 2008 "in field" velocity testing, the velocities in the area of the Bala Wharf should be relatively calm. SREL and Hatch indicate that if actual flow velocities are higher than projected (following the commissioning of the plant) mitigating measures could be employed to resolve the situation.

The Township requests examples of mitigating measures that could be implemented to ensure that velocities in the area of the Bala Wharf can be reduced to ensure safety of the public in and around the Bala Wharf, if and when required.

Staff does not consider this issue to be resolved.

6k: The Township requested clarification regarding the public's ability to access the north shore of the North Falls. Will currents from the tail race prohibit swimming in the area?

SREL has indicated that this is an MNR issue. SREL assistance, as the proponent, is requested in obtaining an answer from MNR on this issue.

Staff does not consider this issue to be answered.

61: Staff considers this question to be answered.

6m: Staff considers this question to be answered.

6n: Staff considers this question to be answered.

60: Staff considers this question to be answered.

6p: Staff considers this question to be answered.

6n: Staff considers this question to be **answered**.

60: Staff considers this question to be answered.

6p: Staff considers this question to be answered.

6q: Economic Impact Study, issue is ongoing.

6r: Staff considers this question to be answered.

7: How will public safety be protected as the plant is made operational and flow volumes are increased or decreased?

SREL indicates that flow levels **will** be increased gradually to prevent sudden changes in water volumes if controls are operated remotely. If an operator is on site, visual inspections upstream and downstream will be made before changing flows. Final operating details will be completed and reviewed by the MNR under the Lakes and Rivers Improvement Act. SREL has indicated that details of the operating plan will be made available to the Township.

Staff have no comments at this time.

8: SREL has contacted the District of Muskoka regarding the water and sewer infrastructure in the North Channel. Slight relocations may be required. Staff have contacted the District who confirm discussions with SREL. SREL will be required to obtain permits from the District prior to any works being undertaken.

Staff considers this question to be answered.

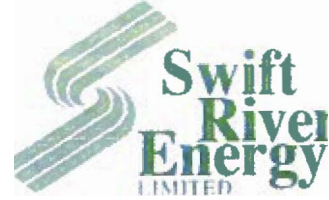
CONCLUSION: The following issues remain outstanding from staffs perspective:

- | | | |
|--|---------|--------------|
| 1. Cofferdam flow restriction
(Does council wish to hire a consultant?) | Action: | TWP or SREL |
| 2. Flow Distribution Committee | Action: | SREL |
| 3. Economic Impact Study | Action: | SREL |
| 4. Temporary Traffic Lights | Action: | SREL |
| 5. Legal opinion, Ont. Reg. 116/01 | Action: | TWP |
| 6. Velocity mitigating measures | Action: | SREL |
| 7. Access to the North Shore | Action: | MNR and SREL |

OTHER POINTS OF INTEREST:

- a) SREL has indicated to the Township that because of discussions relating to the possible withdrawal of the District of Muskoka owned lands required for Option 2, SREL has instructed Hatch Energy to resume preliminary design work on Option 1, construction of the power plant on Crown Lands adjacent to the North Falls. Copies of SREL/Hatch Energy preliminary drawings are included with this report.
- b) A natural gas electrical generating Peaker Plant is proposed to be built in King Township near the Holland Marsh. This facility is located in the Green Belt and apparently in or near the Holland Marsh flood plain. Objections by King Township have resulted in an OMS hearing. Based on discussions with the CAO of King Township, the province imposed regulations on the project that would nullify any planning restrictions sought by King Township before the OMS decision could be made. This provincial decision is currently being appealed to the courts.

FINANCIAL: NJA



September 22, 2010

Township of Muskoka Lakes
P.O. Box 129
1 Bailey Street
Port Carling, ON
POB 1J0

Attn: Mr. Walt Schmid, P.Eng., CAD

Re: North Bala Falls Small Hydro Project - Follow-up to Township Staff Report
dated August 11, 2010 regarding SREL's Response to Elevation Request

Dear Walt:

The following letter is in response to the Township's Staff Report dated August II, 2010 that includes the original Township elevation request issues of November 27, 2009, SREL's responses to these issues of March 17th, and the Township's subsequent comments to those responses. For brevity, I have only provided SREL's responses to the Township's new comments provided on the August 11, 2010, and attached the original correspondence for reference. Also attached is a memo prepared by Hatch Energy to address some of the more technical hydrological concerns expressed by the Township in the Staff Report and subsequent meetings and conference calls, as well as an update provided to the Township on September 8, 2010, that address the Township's solicitor report.

Question 1a:

SREL considers this item to be resolved. Concerns regarding items 1d and 6j are addressed below in the appropriate section.

Question 1b:

It should **first** be noted that the 4 cms difference that is noted in the first paragraph of the Township comments above represents the amount of flow in the river that is used by the existing Algonquin Power Burgess G.S., and is not a surplus of flow to be handled by the north and south dams.

As discussed in phone conversations between Township Staff, SREL, and Hatch Energy, a cross section of the North Channel has not been produced, and is therefore not available. Instead of producing such a drawing, Hatch Energy has reanalyzed the capacity of the Bala dams to handle

2300 Yonge Street
Suite 801. P.O. Box 2300
Toronto, ON M4P 1E4
Phone: 1-866-578-BALA (2252)

the potential flows with the proposed cofferdam in place with the Township's concerns in mind. A memo from Hatch Energy is attached to this letter to describe the basis and conclusions of the calculations.

To summarize Hatch's memo, "The flow capacity estimate of the north channel, while the cofferdam is in place, has been reviewed and found to be reasonable. That is, the capacity of the channel is expected to reduce by 40 m³/s to 178 m³/s (from 218 m³/s) when the lake level is at 226.4 m (i.e. the 100-yr lake level).

Global warming is a longer term affect and is not considered relevant to a one-season cofferdam.

SREL considers this item to be resolved.

Question 1 c:

SREL considers this item to be resolved.

Question 1 d:

The cofferdam will only be in place for as long as it takes to do the required deepening of north channel. However, there are fisheries restrictions as to when we will be permitted to work within the water, including installing and removing the cofferdam. As stated in the ESR, no in-water work shall be conducted between April 1 and July 15th. Therefore, we have indicated that the cofferdam could be in place for the period of July until February. However, it is expected that the upstream cofferdam will not be required for this full period and will likely be removed well before the outside date of February.

Since the design of this cofferdam is typically part of the contractor's scope of work, actual design, including proposed materials, will not be finalized until well after ESR acceptance. That said, the design of the cofferdam dam will be part of the submission to MNR for its Plans and Specifications Approval, required to be obtained prior to commencement of construction.

Furthermore, should a flood event occur during the construction period causing property damage to either upstream residences or the North Dam (or any other), an investigation would be completed to determine where the fault lies i.e. dam operations, contractor's cofferdam, etc. SREL and its Contractor will have appropriate insurance coverage for events for which they are found to be at fault.

It should be noted that extreme weather events causing the type of flooding that is discussed in the Township's comments do not occur without warning. MNR is responsible for monitoring water levels upstream of the project site under the MRWMP and would have sufficient notice to be able to notify SREL that such an event is pending. MNR and SREL (and its contractor) would then make the decision if the cofferdam needs to be removed. Since the contractor will have equipment on site throughout the construction period, cofferdam removal could be completed quickly if required.

Township of Muskoka Lakes
September 22, 2010

In addition to the above, Hatch Energy has prepared the attached memo provided to the Township that addresses these concerns and lists components of a risk management scheme to prevent flooding damage from occurring.

SREL considers this item to be resolved.

Question 2a and 2b:

As stated in the earlier response, SREL welcomes meeting with the Township and MNR to discuss the aesthetic flows. The overall flow distribution at the site will be outlined in the amendment to the Water Management Plan. SREL are currently talking to various stakeholders to form a **multi**-stakeholder Flow Distribution Committee to review the flow distribution plan as presented in the ESR.

It should be noted that the ESR clearly indicates that the minimum proposed summer aesthetic flow over the south dam will be 2 cms as opposed to the 1 cms that the Township quotes in its comments.

It should also be noted that the existing summer flow through the north dam is estimated to be between 1 and 2 cms. It is not possible to provide a better estimate than this due to the nature of leakage through stoplogs. However, SREL's proposal is to maintain the existing leakage flow for the north dam.

It appears that the Township and the community have been confused by the term "minimum flow" over the dams as expressed in the ESR. While we have outlined the "minimums" in the ESR, since this document will be used for compliance, the "average" flows are expected to be significantly higher than the minimums.

SREL is committed to having a Township representative join the Flow Distribution Committee for the project either as an observer or a member. Eitller way, SREL has also committed to providing a presentation to the Township the results of the review by the Flow Distribution Committee when it is completed.

SREL considers the resolution of this issue to be ongoing.

Question 3a:

SREL has requested that MNR speak to the SAC regarding making a presentation to the Flow Distribution Committee regarding the **MRWMP**. The SAC is also considering having a member be an observer and possibly Chair, on this Flow Distribution Committee.

SREL considers this item to be resolved.

Question 4a:

SREL considers this item to be resolved.

Question 4b:

SREL considers this item to be resolved.

Question 4c:

SREL considers this item to be resolved.

Question 4d:

SREL has provided the Township with its comments (dated September 8, 2010) on the solicitor's report as attached.

SREL considers this item to be resolved.

Question 5a:

The Economic Impact Study has been initiated and will be available for Township review in late September/early October.

The resolution for this issue is therefore ongoing.

Question 5b:

SREL will have its consultant incorporate the Township's comments into the Economic Impact Study expected to be completed in late September or early October.

The resolution for this issue is therefore, ongoing.

Question 5c:

SREL will have its consultant incorporate the Township's comments into the Economic Impact Study expected to be completed in late September or early October.

The resolution for this issue is therefore, ongoing.

Question 5d:

SREL considers this item to be resolved. Further requested discussions will take place after ESR acceptance.

Question 5e:

SREL considers this item to be resolved with the understanding that municipal approvals will be required after ESR acceptance. SREL is open to looking at installing a temporary traffic light as Township has requested.

Question 68:

SREL considers this item to be resolved.

Question 6b:

SREL considers this item to be resolved. Items 1d and 6j will be addressed in the respective sections of this letter.

Question 6c:

SREL considers this item to be resolved.

Question 6d:

SREL considers this item to be resolved.

Question 6e:

DFO provided its comments on the ESR to SREL and MOE in November 2009. MOE will be considering those comments in its evaluation of the ESR. Note that there will not be an "approval" from DFO until after we have received ESR acceptance and enter into the permitting stage of the project. SREL will require a Fisheries Act Approval from DFO for this project prior to construction commencing.

SREL considers this issue to be under the mandate of other regulatory agencies (MNR. and DFO).

Question 6f:

It should be noted that MNR estimates the typical log leakage through the North Dam to be "between 1 and 2 m^3/s ". Unfortunately it is not possible to make a more exact approximation than that. SREL is committed to maintaining the typical, pre-construction, log leakage at the North Dam.

As noted above, SREL initiated an Economic Impact Study in August 2010. In addition, SREL is forming a multi-stakeholder Flow Distribution Committee to review the flow distribution plan including the proposed minimum flows through the two dams.

SREL considers the resolution of this issue to be ongoing.

Question 6g:

SREL considers this item to be resolved with the understanding that the landscape Public Advisory Group will be formed during the detailed design stage of the project, i.e. after acceptance of the ESR.

Question 6h:

SREL considers this item to be resolved.

Question 6i and 6j:

Township Staff, SREL and Hatch energy have discussed the Township's concerns in meetings and phone conversations with respect to flow velocities in the area of Bala Wharf as well as the intake velocities. Hatch Energy produced the attached memo that was issued to the Township to specifically address this issue. To summarize the conclusions of this memo:

"The impact of this intake velocity on the upstream flow behaviour during normal operations conditions was illustrated by the results of the field measurements program conducted in December 2008. Although the flow at the north dam was $80 \text{ m}^3/\text{s}$ when the measurements were made, the field results provide the best estimate of velocity in the upper north channel when the plant is operating near its capacity and their accuracy is commensurate with this level of study. If water velocities at the Bala Wharf are higher than originally anticipated (following commissioning of the plant) mitigation measures could be employed to resolve the situation."

SREL has considered the possible creation of a short breakwall at this location, however, it is generally believed that this could cause additional safety issues with people and children now having a structure closer to the restricted boomed area to climb on and possibly fall off of.

It has been clarified that typically intake velocities for these types of projects are limited to 0.6 m/s to minimize frazil ice and minimize fish mortality. However this is not a regulated maximum.

SREL considers this item to be resolved.

Question 6k:

The Township is asking for clarification from MNR. Therefore, SREL considers this issue to be resolved from its perspective.

Question 6l:

SREL considers this item to be resolved.

Question 6m:

It should be noted that an existing sandy area already exists just upstream of the proposed boom location that would be suitable for a canoe launch. This area has also been noted by Transport Canada and members of the community during discussions.

SREL considers this item to be resolved.

Question 6n:

SREL welcomes the input of the Township into the appearance of required safety fencing. It is intended that these discussions will be held with the proposed landscaping Public Advisory Committee during the detailed design stage of the project. It is agreed that SREL would be responsible for any fencing of the restricted area of the North Channel for safety issues.

SREL considers this item to be resolved with the understanding that further discussions will be conducted after acceptance of the ESR.

Question 6o:

SREL considers this item to be resolved.

Question 6p:

SREL considers this item to be resolved.

Question 6q:

SREL initiated the Economic Impact Study in August 2010. It is expected to be completed in late September or early October 2010.

SREL considers the resolution of this issue to be ongoing.

Question 6r:

SREL considers this item to be resolved.

Township of Muskoka Lakes
September 22, 2010

New Questions by Township: (new questions provided in *italics*)

New Question 7: *SREL should provide information to the Township indicating how public safety will be protected when the plant is made operational (off/on) or low levels through the plant are changed.*

Areas considered to be unsafe will be "restricted" to the public. Restricted areas in the water will be behind floating navigational booms in the water and shorelines will be barriered either with fencing or landscaping features. Restricted areas on land will either be closed off by fencing or landscaping features. Details of these elements will be discussed with the landscaping Public Advisory Committee.

Changes in flow levels through the plant will be made gradually if done remotely to ensure that no one is caught, unexpectedly by a sudden change in water flow. If operator is on site, visual checks upstream and downstream of the plant and dams will be completed before changing flows.

Final operational details will be completed and reviewed by MNR under the Lake and Rivers Improvement Act. These details will then be made available for review by the Township.

SREL considers this issue to be resolved with the understanding that further discussions will occur during the detailed design phase of the project, after acceptance of the ESR.

New Question 8: *SREL is advised that water and sewer main infrastructure pipes are located within the core construction area, potentially downstream of the Canadian Pacific Railway bridge. SREL is asked to contract the District Municipality of Muskoka Public Works Department to establish if there is any infrastructure conflict with the proposed project construction.*

SREL is aware of the water and sewer pipes and has already obtained drawings from the District as to their location and discussed the issue with the Engineering Department. These pipes will need to be relocated slightly by our contractor for our project. SREL will be applying for approval from the District to move these pipes at the appropriate time in the process.

SREL considers this issue to be resolved with the understanding that permits will be required from the District prior to construction.

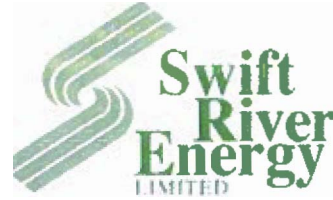
Please call me if you would like to discuss any of these items further (905-331-969).

Respectfully,
Swift River Energy Limited



North Bala Small Hydro Project Manager

c.c. Trion Clarke, Larry King, Hatch Energy
Adam Sanzo, EAAB, MOE



September 8, 2010

Township of Muskoka Lakes
P.O. Box 129
1 Bailey Street
Port Carling, ON
POB 110

Attn: Mr. Walt Schmid, P.Eng., CAO

Re: North Bala Falls Small Hydro Project - Follow-up

Dear Walt:

Further to our numerous discussions since your August 11th Staff Report to Township Council, I would like to clarify the status of these discussions as follows:

1. Responses to Township concerns with respect to SREL's responses to its elevation request:
 - a. The Township's CAO, SREL's Project Manager, and SREL's consulting engineers Hatch Energy have held discussions and exchanged written correspondence with respect to those issues brought forward in the August 11th Staff Report with respect to cofferdams, and velocities at the intake and Bala Wharf as noted in the project ESR and supporting documentation provided to the Township for its review of the ESR.
 - b. The Township's CAO and SREL's Project Manager have discussed the remaining issues in the Staff Report.
 - c. SREL and its consultant Hatch are currently working on an official response to all issues noted in the Staff Report. This response will be forwarded to the MNR for review prior to submitting to the Township and ultimately to MOE EAAB. This response is expected to be completed within the next week.
2. SREL's comments on Burgar Rowe's legal opinion included with August 11th Staff Report:
 - a. SREL has reviewed the Township's legal opinion provided by Burgar and Rowe as provided attached to the Staff Report.
 - b. As noted in an email to the CAO dated September 8, 2010, SREL has the following comments:
 - Note that the North Bala Dam project was actually started prior to the development of Class EA process for waterpower projects and is, therefore, proceeding under Ontario Regulation 116/01 of the Environmental Assessment Act for Electricity projects and the Canadian Environmental Assessment Act (CEAA). SREL is **permitted** to proceed

2300 Yonge Street
Suite 801, P.O. Box 2300
Toronto, ON M4P 1E4
Phone: 1-866-578-BALA (2252)

under this regulation since we declared Notice of Completion prior to December 31, 2010.

- SREL believes this project falls does not fall under Ontario Regulation 359/09 of the Environmental Protection Act as B&R states.

3. Economic Impact Study:

- a. SREL wishes to thank the Township for its input and coordination with the Chamber of Commerce for the development of the terms of reference, composition of the questionnaire, and development of the distribution list for the questionnaire for the proposed Economic Impact Study.
- b. This information and related comments have now been provided to our economic specialists to develop a web-based questionnaire, circulate and analyze the results.
- c. A copy of the preliminary report (as outlined in the terms of reference) will be provided to the Township for review when available prior to finalizing.

4. Bala Flow Distribution Strategy Committee:

- a. SREL committed to establish a Flow Distribution Strategy Committee at the August 24, 2010 Township Council Meeting to review the comments made by the Township that the proposed flows over the South Dam were insufficient and as stated in our response to the Township's original elevation request for the project.
- b. It is **SREL's** intention that this Committee will be established to review the proposed flow distribution strategy as outlined in the projects ESR dated October 2009.
- c. It is SREL's intention that this Committee will be comprised of a number of key stakeholders. The Township has offered a suggested list of Committee members to be considered by SREL.
- d. It is **SREL's** intention to review the Township's list of suggested stakeholders with a list of other stakeholders that have expressed an interest in being involved in this committee throughout our 3-year consultation process for the project. SREL will finalize the membership once it is satisfied that a representative group of individuals with an interest in this particular issue has been reached. This final list will be provided to the Township for its records.
- e. SREL has briefly discussed the formation of this Committee with MNR and requested that a meeting be set up with MNR and/or the Muskoka River Water Management Plan Standing Advisory Committee (MRWMP SAC) to discuss the scope and overall mandate for this Committee in the context of the MRWMP and the required amendment for this project.
- f. SREL has requested that either MNR or a member of the MRWMP SAC either chair or co-chair this Committee.
- g. Therefore, to summarize: SREL, as the proponent, will be finalizing the membership, mandate, agenda, and presentation material for this group and inviting guest speaker(s) over the next couple of weeks. When this background work is complete, a kick-off meeting for the group will be planned. It is expected that the commitment of the members will be 3-4 meetings, held on weekday evenings, likely between 6:30 and 8:30 p.m. in the Bala area. SREL will keep the Township informed as to developments as this process unfolds.

Township of Muskoka Lakes
September 8, 2010

5. Township's **planned public meeting for September 18th**:
 - a. Mayor Ellis invited SREL to attend and present at its planned public meeting on Saturday September 18th. It was also requested that SREL bring the required experts to answer questions regarding the project that the Township feels have not be adequately address to date.
 - b. SREL is committed to attending this meeting under the condition that an agenda and the questions that the Township would like to be addressed are provided to SREL with sufficient time to allow for proper preparations and to ensure that the appropriate experts are available to attend.
 - c. It has been confirmed that both SREL's Project Manager (Karen McGhee) and Co-Vice Chair (John Wildman) will be available to attend. SREL's other representatives have not yet confirmed availability. SREL intends to bring representatives from Hatch if available, depending on the nature of the issues to be discussed.

Please feel free to contact the undersigned if you wish further clarification.

Respectfully,

Karen McGhee

North Bala Small Hydro Project Manager
Swift **River** Energy Limited

c.c. Adam Sanzo, EAAB, MOE
Steve Taylor, MNR

Project Memo

September 17, 2010

TO: Karen McGhee (MKE Limited)

FROM: Jason Shaw

cc: C. R. Donnelly

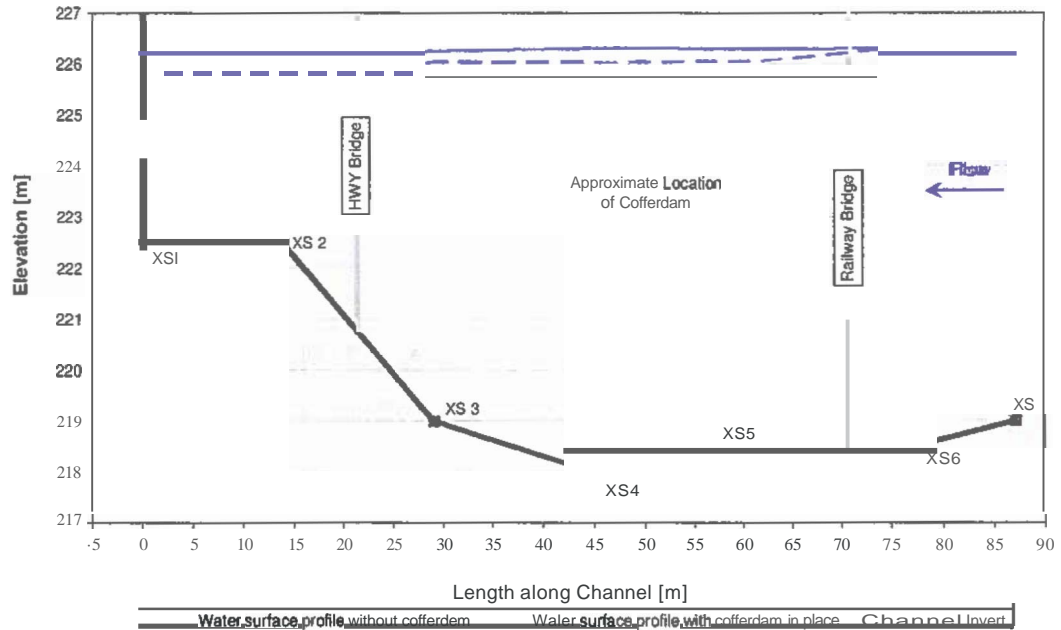
Swift River Energy Limited North Bala Hydroelectric Project

Response to Outstanding Issues Regarding the Development of the North Bala Hydroelectric Project

Walt Schmid (CAO Muskoka Lakes Township) summarized the outstanding issues identified at the Special Council Meeting on August 11, 2010 for Karen McGhee and Jason Shaw during a telephone conference call on September 1, 2010. The issues were discussed and the conference call was concluded with a request by Mr. Schmid to provide him with statements that would address, and bring closure, to these issues. The following text represents a summary of the conference call and Hatch's response to the issues.

1. Review of the flow estimate in the north channel with the cofferdam in place.
 - a. *The flow capacity estimate of the north channel, while the cofferdam is in place, has been reviewed and found to be reasonable. That is, the capacity of the channel is expected to reduce by 40 m³/s to 178 m³/s (from 218 m³/s) when the lake level is at 226.4 m (i.e., the 10o-yr lake level). This estimate was based on the results of a numerical model designed to simulate flow in the reach between the dam and 15 m upstream of the railroad bridge. The figure below illustrates the anticipated water surface profile for both cases. With the cofferdam in place, the water surface drops and the flow accelerates as it passes downstream, but the flow regime (subcritical) is unchanged. At the dam, the water level will be reduced by 0.3 m. It is important to note that this predicted flow behavior is subject to diligent operation of the dam in case such a flow event presents itself during construction. The flow regime will be sensitive to the status of the logs in the dam and any changes made to them. For the purpose of this assessment, it was assumed that aff logs were out during the simulations. If any logs remain in the dam during such an event, the capacity of the channel will be further reduced. It should be noted that MNR will continue to be responsible for the operation of the dam including the stop logs throughout the construction period, and that an extreme flood event such as this would not come without notice as it moves down the river. MNR and SREL (including its contractors) will need to maintain close communications regarding the water levels for the period that this cofferdam is in place.*

North Bala Small Hydro Project Water Surface Profiles



2. Flood risk with the presence of the cofferdam.

- a. *Construction in water has inherent risks that must be managed. As noted in Statement No. 1 above, the conveyance capacity of the north channel will be reduced during construction and consequently increase the risk of flooding. As such, management of this risk must be included as part of the overall design. Components of the risk management scheme will include, but not be limited to, the following.*
 - i. *Construction Schedule- Construction of the upstream cofferdam will be scheduled after the spring freshet of the first year and removed before the spring freshet of the following year. While it is entirely possible that the work will be completed faster and the cofferdam removed earlier, it is too early in the process to make this commitment. Note that if delays lengthen the construction schedule provisions will be made to ensure the cofferdam is removed before spring freshet and replaced the following July as required. This scenario will be dependent on the type of cofferdam that the contractor proposes and, as noted below, MNR's review of the structure.*
 - ii. *A cofferdam design that will expedite its removal - A well-designed cofferdam with the footprint illustrated in the October 2009 Environmental Screening Report will be designed so that it can be breached and removed in a matter of hours to alleviate the flow constriction. Note that design of the cofferdam is typically the responsibility of the Contractor and that this design will ultimately be reviewed by MNR's engineers (i.e., Nick Paroschy) prior to commencing construction as part of the Plans and Specifications Approval for the project.*
 - iii. *Flood Forecasting – Review MNR's procedure for flood forecasting and, if necessary, provide enhancements that specifically address the construction project.*

- iv. *An emergency flood plan - Review MNR's flood management plan for the Mliskoka watershed and, if necessary, provide temporary measures that will control/restrict flow entering Lake Mliskoka in an effort to maintain manageable water levels/flow during construction.*

An illustration of the use of these types of risk management measures is seen in a recent Hatch project in southern Ontario. Hatch provided the design and construction management for the modification of a stilling basin of a 33-m high dam. The work required concrete construction below water immediately downstream of the dam. The construction plan called for the erection of a sheetpile cofferdam to create a dry area for machinery and workers. The construction was planned for 2 years where the schedule dictated assembly of the cofferdam after the spring freshet and fish spawning period and removal before the spring freshet of the following year. The owner provided the water level and flow ranges expected during construction which formed the basis of design specifications for the cofferdam. As part of normal operation, the owner regularly monitored weather conditions and provided ample warning of significant flood events that may have impacted the construction zone.

3. Water velocity in the north channel under normal operating conditions.
 - a. *The preferred option is a 4.3-MW plant with a rated flow capacity of 96 m³/s. With a water depth of 225.25 m (normal depth), an intake invert elevation of 2 t 1.4 m, and an intake width of 9.5 m, the velocity at the intake would be 0,73 m/s (at the trashracks). To maintain an intake velocity (at the trashracks) of 0.6 m/s and comply with several design objectives (e.g., minimize fish mortality, minimize frazil ice problems), the width of the intake (at the trashracks) must be increased to 11.6 m. This increase in width, however, is not necessary for either safety or regulatory requirement, but instead for an improvement to operations. Unfortunately, an illustration reflecting this size was not included in the Environmental Screening Report. The impact of this intake velocity on the upstream flow behavior during normal operating conditions was illustrated by the results of the field measurement program conducted in December 2008. Although the flow at the north dam was 80 m³/s when the measurements were made, the field results provide the best estimate of velocity in the upper north channel when the plant is operating near its capacity and their accuracy is commensurate with this level of study. If water velocities at the Bala Wharf are higher than originally anticipated (following commissioning of the plant) mitigation measures could be employed to resolve the situation.*

JS:ml



SPECIAL COUNCIL MEETING
AGENDA REPORT

TO: Mayor Ellis and Members of Council
MEETING DATE: August 11th, 2010
SUBJECT: NORTH BALA SMALL HYDRO PROJECT - ENVIRONMENTAL SCREENING 1
REVIEW (Report as amended by Council on August 11, 2010)

RESOLUTION NUMBER: **SC-5 -11108/10**

MOVED BY: Dianne Davidson

SEeo OED BY: Elizabeth Denyar

BE IT RESOLVED THAT

1. That Council accept the August 11, 2010 North Bala Small Hydro Project-Environmental Screening Review Report, **as amended**, prepared by the Chief Administrative Officer, and the recommendations contained therein; and
2. That the Chief Administrative Officer be directed to work with Swift River Energy Limited to obtain answers to the questions identified in the report **and identified by Council** and establish time frames in which these answers will be obtained; and
3. That the Chief Administrative Officer be directed to forward a copy of the Report and Councils concerns to the MOE Director of EAAB, responsible for the North Bala Small Hydro Project, requesting that the decision for the ESR Approval be deferred until answers to the municipalities concerns are addressed by SREL, most specifically those issues relating to public safety, the economic well being of the community and protection of persons and property **including concerns respecting cofferdam installation and high water impacts**.
4. That the Chief Administrative Officer report back to Council at its September 14th meeting with a project status update.

CARRIED

APPROVALS:	Date	Signature
Submitted By: Walt Schmid, CAO	<u>08/11/2010</u>	<u>Original signed by W. Schmid</u>

ORIGIN: Government of Ontario, Swift River Energy Limited

BACKGROUND:

The Government of Ontario has released a number of potential hydro electric power generation sites for development throughout the province. The North Bala Dam project was offered for competitive release under the MNR Waterpower Site Release Policy. Swift River Energy Limited Partnership (SREL) was named as the Applicant of Record, giving SREL the leave to undertake an environmental screening report of the proposed project and to seek the requisite permits and approvals.

Over the last number of years the Council of the Corporation of the Township of Muskoka Lakes has passed the following resolutions relative to the proposed North Ball Dam project:

- 1) On January 5, 2005 Resolution PC-7-5/01/05 was carried stating;

"the Township of Muskoka Lakes advise the MNR that any potential development at the Bala North Dam operated in accordance with the operating ranges of Lake Muskoka and Bala Reach as specified in the **MRWMP**;

and further that any potential facility also consider the need for scenic flows, public access for traditional uses and continuity of business in local area;

and further that a member of the Public Advisory Committee for the MRWMP be included on the review team for the proposed development."

- 2) On July 8, 2008 Resolution **C-29** 08/07/08 was carried stating:

"BE IT RESOLVED THAT the Council of the Township of Muskoka Lakes, concurs "in principal" that the District Municipality of Muskoka consider the use of the District owned lands, located on the south side of the Bala Falls North Dam, by Swift River Energy, as part of a new hydroelectric generating facility, all subject to further public input and successful completion of the required Environmental Screening".

- 3) On October 21, 2008 Resolution C-14-21/10/08 was carried stating:

"the council of the Township of Muskoka Lakes recommends to the Ministry of Natural Resources, and Swift River Energy that the environmental screening for the hydro project at the North Bala Falls include:

the heritage value of the North Baja Falls and any related heritage impact the hydro generation station may have on the falls. And that

- ii the environmental screening process takes into consideration the potential impact that the proposed construction may have on Bala's economy, including its important winter economy by addressing safe snowmobile movement around the construction site, by investigating alternative water crossings of Bala Bay."

- 4) On November 24, 2009, Resolution C-23-24/11/09 was carried stating:

Be it Resolved that the Report, "North Bala Small Hydro Project- Environmental Screening Review" be forwarded to Hatch Energy for response to the various questions outlined in the analysis section of the report, all in keeping with the Environmental Screening Process established by the Ministry of the Environment, and;

That the Township of Muskoka Lakes requests that the Environmental Screening Process Review Period be extended for an additional 90 days in order to address the municipalities concerns, and;

That Township staff report its findings back to Council at some future date.

SREL hired Hatch Energy to complete an Environmental Screening Report (ESR) which was completed in October 2009. The proposed project is subject to the Ontario Environmental Screening Process for Electricity Projects as well as the Canadian Environmental Assessment Act.

Public comment for the development of a 4.3 MW run of the river hydroelectric facility at the North Bala Dam were accepted until November 27th, 2009. The release of the October 2009 ESR provided council with its first opportunity to analysis the proposed project with all facets presented together in one document and provided new information not yet presented.

The Township of Muskoka Lakes submitted an elevation request to Hatch Energy and the MOE Director of the EAAB in order to have municipal concerns addressed prior to any approval of the project.

A meeting was held with Swift River Energy Limited (SREL) representatives on January 22nd, 2010. The Township received a response to its "elevation request" on March 18th, 2010. A number of Township concerns were addressed in this correspondence however a number of outstanding issues continued to require answers. Accordingly numerous additional phone conversations have been held with SREL, as well as discussions with the Department of Fisheries and Oceans, Transport Canada, the Ministry of Natural Resources, the Township's solicitor, the Muskoka Lakes Chamber of Commerce and members of the community, in an effort to understand and address community concerns.

ANALYSIS:

Legal Opinion:

Many members of the public have asked *'Why doesn't the Township simply stop this project?'*

In staffs November 24, 2009 report, Council was advised that the Provincial Governments introduction of the Green Energy Act, and Green Economy Act would likely render certain municipal by-laws inoperative with respect to a municipality's ability to stop or change any designated renewable energy projects. It was likely that this would apply to the North Bala Dam Project.

To confirm the municipality's understanding of the new legislation, staff have obtained a formal legal opinion from its municipal solicitor, Burgar Rowe Professional Corporation. Burgar Rowe was asked to give an opinion whether the Township had the ability to control or stop the hydro project proposed at the North Bala Dam by SREL. A copy of the legal opinion is attached for Council's information, Appendix "A". In short the solicitor advises that:

1. "The net result of this (Green Energy Act Regulations) is to remove from the municipal level of government decision making into renewable energy projects. **While** proponents are required to engage in consultation with municipalities during the approval process, local authority to control or stop such projects has largely been removed and placed at the provincial level with limited rights of appeal to the ERT..... Under the Act, a "person residenf' can appeal a renewable energy project only on grounds that It will cause "serious

harm to human health" or "serious and irreversible harm to plant life, animal life or the natural environment'. The harm must not only be serious, and in the case of plants, animals and the natural environment, irreversible, but the burden of proof rests with the appellant to prove that it will occur as a result of the proposed development"

2. *"In view of the overall intent of the legislation and the underlying government policy to promote and develop an economy based on sustainable renewable green energy, it is very unlikely that a municipality could prevent a green energy project from proceeding if it is likely to obtain EPA approval. The recommended approach is to participate actively in the consultative process by requesting detailed information and responses to objective questions at the earliest possible stage. It is also recommended to focus on mitigative factors and alternatives and alternatives that will attain the best solution Jocal municipal interests with respect to a particular green energy proposal."*

In short the Township of Muskoka Lakes does not have the authority to stop, or control the North Bala Small Hydro Project Environmental Screening Report (ESR) or project. This authority lies solely with the Province of Ontario.

Analysis of SREL Response to the Townships Elevation Request.

A meeting was held with SREL on January 22nd to clarify the Townships concerns. A written response to the Township's concerns was received March 19th 2010. Numerous phone conversations have since been held with SREL, in order to gain clarification to their response. Similar discussions have been held with Transport Canada, the Department of Fisheries and Oceans, the Ministry of Natural Resources, the Ministry of the Environment, the Ministry of Culture and others in an attempt to clarify various positions.

Even though the municipality may not have had "jurisdictional rights" in various areas of **concern or** may have had its jurisdictional rights removed as a result of the new Green Energy Act, all agencies were cooperative and open in their responses.

The following analysis provides a copy of the Township's questions of November 24, 2009, the SREL March 18th response to these questions (in italic)j and staff comments to SREL response. The analysis is presented in the order provided by SREL.

Staff comments may include updated information provided by SREL or comments from various government ministries, as may be applicable. In some cases SREL has satisfactorily answered the Townships inquiries, in other cases only partially so, hence requiring further information or a position by SREL. A complete copy of the SREL correspondence is attached as Appendix liB",

Question 1a: Will the Bala North Dam be operated within the Lake Muskoka / Bala Reach Operating Ranges as set out in the MRWMP? The municipality seeks further clarification both from MNR and SREL as to the impact on Lake Muskoka water levels during high flows or the spring freshet, resulting from the establishment of the temporary cofferdam/working platform proposed to be constructed in the North Channel upstream of the powerhouse intake. Will the temporary cofferdam/working platform result in temporary higher water levels in Lake Muskoka? If so, to what extent?

SREL Response: MNR will continue operations of the two dams to maintain the water levels on Lake Muskoka and the Bala Reach during the construction period as they do currently. Both the North and South 8a/a dams will remain operational during the construction period. The proposed upstream cofferdam will be located upstream of the road bridge leaving all of the North Dam spill bays available for passing flow. The South Dam will continue to have priority in terms of releasing flows from the

Lake Additional spill capacity is available at the North Dam once the maximum spill capacity at the South Dam is achieved.

The construction of a temporary cofferdam will have little or no effect on water levels during high flows or the spring freshet. Any raising of the water level caused by the cofferdam can be easily compensated for by the removal of stop logs. Note that the upstream cofferdam will cover a relatively small area, as the actual intake structure will be constructed in the dry behind a rock plug. The cofferdam will only be required for some localized deepening of the intake channel. In order to limit any possible complications with spill operations, the construction schedule is planned to employ the upstream cofferdam outside of the spring freshet months of April and May.

Comment: SREL have advised that the coffer dam is not to be in place during the high flow spring freshet. MNR confirms that they will be monitoring the lake levels during the proposed construction, including the timeframe when the cofferdam is proposed to be in place in the North Channel. MNR will be responsible for the operation of both the North and South Bala Dams during the entire construction period. The onus of water level control will remain with the government agency which has historically been responsible for dam operations.

SREL response is acceptable and has been confirmed with the MNR. [However, we reference comments in item 1.d and 6.j, which raise high lake level concerns which need to be addressed.](#)

Question 1b: Does the south dam have the capability to convey all the upstream flow? If not, to what extent does the south dam have the ability to relieve higher water levels on Lake Muskoka?

SREL Response: *The combined capacity of the north and south dams corresponds to the 1:100 year spring flood of 470 m³/s at a lake water level of 226.4 m. The south dam has the capacity to pass 252 m³/s and the north dam 218 m³/s. With the cofferdam in place, creating a restriction in the north channel, the reduced combined flood capacity of the north and south dams would be approximately 430 m³/s at a lake water level of 226.4 m (as estimated by our consultant Hatch). This reduced capacity corresponds approximately to the 1'48 year return period spring flood flows.*

It should be noted that based on historical records, the majority of the high spill requirements occur during the spring freshet period in April/May. In order to limit complications with spill operations, the construction schedule, as stated in Section 5.2.8.2 of our ESR is planned such that the upstream temporary cofferdam will be installed in the initial year of construction following the spring freshet (July) with the intention of removing it prior to the freshet the following year (February), thereby avoiding this period of high flow.

As is typical for these types of installation, the cofferdam will be constructed to withstand the 1 in 20 year spring flood event. The 1 in 20 year flood for this location is 362 m³/s which is less than the temporary combined capacity of the two dams.

Comment: Based on review of Figure 2.4, the average weekly historical flow (1982 to 1999) for the north and south dams during the high flow spring freshet have been recorded as 148cms and 108cms respectively for a total average weekly peak spring freshet flow of 256cms. The south dam if opened completely should convey 252cms, 4 cms less than the full capacity needed to convey the historical average weekly flow during the spring freshet. This leaves the entire capacity of the North Dam of 218 cms, less 4 cms, or 214cms, available for conveyance. With the cofferdam in place it is suggested by SREL that the North Channel capacity will be reduced by 40 cms or 178 cms, more than sufficient capacity to convey the average weekly historical flow. SREL advises that it will construct the cofferdam in July, after the spring freshet, when flows have been reduced, with the onset of drier summer weather. Average weekly historical flows (1982 to 1999) for July are 36 cms. The south dam

would have more than ample capacity to convey average historical weekly flows during the summer and fall.

It should be noted however that heavy and prolonged rainstorm events especially when combined with quick spring snow melts could result in higher than normal flows, which may result in capacity concerns at the North Channel when the cofferdam is in place. SREL has suggested that the south dam and reduced capacity north dam could still convey 1:48 year spring freshet flow with the cofferdam in place if the cofferdam is installed as shown on Figure 5.2.

The 1 in 48 year melt is a significant high flow event. That being said, the Township has requested that it be provided with a cross-sectional area of the North Channel showing the greatest encroachment of the cofferdam into the waterway during construction. This information has been denied by SREL. The Township requests that this information be provided to confirm the capacity reduction of the channel as a result of the cofferdam construction and to ensure that all agencies understand the extent to which the cofferdam will encroach into the North Channel.

Council has concerns with regard to recent global warming events that may cause increased January thaws. A cofferdam restriction of the North Channel may result in upstream and downstream flooding and property damage.

Question 1c. Are there other constrictions upstream of the North Dam that has a greater effect on any backwater effects in Lake Muskoka created by the (cofferdam) working platform?

SREL Response: There are upstream constrictions that can create localized changes in water level at the dam. In addition, given the large size of Lake Muskoka also experiences wind effects that can change water levels. All of these issues are currently managed within the MRWMP and will continue to be during the construction period.

Comments: The MRWMP is monitored by the MNR and is outside of the municipality's jurisdiction and control. The MNR advise that they will be monitoring lake levels during the construction of the hydro generation facility to ensure that flooding that may cause property damage will be avoided or mitigated.

Question 1d. What measures are proposed to mitigate upstream flooding during construction should the introduction of the working platform create increased water levels on the Lake?

SREL Response: Should a flood event occur that could not be passed by the combined South Dam and reduced capacity North Dam, SREL would have the cofferdam removed to allow the flood to pass. Given that the proposed work to be done behind the cofferdam will only be excavation work to deepen the channel, removing the cofferdam can be done quickly and easily, without any damage to our new construction. Note again, that the construction schedule will be designed to have this work completed outside of the spring freshet high flow period to minimize the chance of this scenario occurring.

Comment: SREL indicates that the cofferdam will be constructed in July, after the spring freshet and removed prior to the spring freshet of the following year. SREL also indicates that should the capacity of the dams be exceeded, the cofferdam can be removed, opening up the North Channel to its full width.

Staff note that recent mid winter thaws have created high water levels and high flows in the Muskoka River. To minimize the potential of flooding upstream of the Bala dams and associated property damage, it is recommended that the coffer dam be removed from the North Channel as soon as

practically possible, creating a capacity flow in the North Channel at least as great as currently exists. This requirement should be incorporated into the construction contract for the works.

It is also recommended that a contingency plan be created by SREL and approved by MNR that would clearly identify how the cofferdam would be removed in the event of any high water event. This contingency plan should identify what equipment is required to remove the cofferdam, where the equipment can be acquired, the flow rate or water level the equipment should be brought on site in preparation for a cofferdam removal, and at what water level or flow rate the cofferdam be removed in order to protect upstream properties.

The Township has concerns that should the cofferdam be removed too late in the process, cofferdam rock debris could be washed downstream by high velocity flows, potentially damaging the existing north dam structure. We leave this consideration to the MNR operating authority to address.

Council is requesting that the province ensure that the proponent or the proponent's contractor include appropriate insurance coverage in the case that the cofferdam restriction in the North Channel results in property damage due to flooding.

question 2: That any potential generating facility consider the need for scenic flows, public access for traditional uses and continuity of business in the local areas.

question 2a. It is recommended that both dams be modelled in order to visually observe the proposed controlled water flows. Based on this observation, a better determination can be made to establish an acceptable aesthetic flow over the dams.

SREL Response: SREL and its consultant Hatch, with the assistance of MNR, completed a Qualitative Flow Assessment for the project in June 2009. An abridged version of this report is provided attached for your review. It includes photos from various locations around both dams at a flow of 2 m³/s. Unfortunately we were not able to reduce the flow to 1 ems at that time due to some worn or warped logs. In order to reduce to 1 ems, we will likely require replacement of stoplogs. A video was also taken at south dam at a flow of approximately 2.5 ems. Unfortunately, MNR had already started removing some of the logs before we were able to film the flow at 2.0 ems. This 28 second video is available to Council on request.

Comment: Section 6.2.2.1. of the Environmental Screening Report proposes that should the project be approved, the flow rates at the north and south dams would be reduced to a combined total flow rate of 2 cms. This flow rate is less than the flow rate currently experienced at either dam when only leakage occurs and no water tops over the dam.

SREL hired Hatch Engineering to undertake a Quantitative Flow Assessment at the North and South Dams on June 11, 2009, (Appendix "e"). Flows were reduced to an estimated 2.0 cms per dam and included stop log leakage only. This would mean a total 4 cms was being passed down stream through stop log leakage, twice the proposed volume as recommended in the ESR. SREL has provided a copy of photographs illustrating the 2.0 cms flow downstream of each of the dam structures. Hatch advised that the flow could be reduced to the proposed 1 cms per dam if warped stop logs were replaced.

Staff suggests that the proposed 1 cms per dam is totally unacceptable and will dramatically affect the aesthetics of the falls. Although 2.0 cms may be the typical existing stop log leakage rate at the North Dam, 1.0 cms would be a dramatic reduction in the historical flow and attraction of the falls.

Review of the June 11th photographs of the South Falls at a leakage rate of 2.0 cms indicates a flow that would by no means attract the attention of tourists and residents that visit the site each year.

Reduction of the flow down to the proposed 1.0 ems, would create a nonexistent rocky feature and would have a dramatic negative effect on Bala's tourism draw and economy.

These reduced flow concerns have been raised with SREL on numerous occasions. SREL has indicated that the final decision on aesthetic flows over both the North and South Falls will ultimately be decided by the MNR and or the MOE. Staff recommends that the aesthetic flow volumes be included in the economic impact study as a negative impact of the project on the Town of Bala, and that mitigating measures, including appropriate flow volumes be established as part of the study that should include higher flow rates than currently proposed by SREL. Assistance of the MNR and MOE are requested in this matter. These recommendations should be included as a condition, should the project be approved by the province.

Council has requested staff to contact the Ministry of Tourism to comment on the potential impact that the flow reduction will have on the economy and tourism of Bala

Question 2b: A joint review committee of MNR, SREL, and township representatives, perhaps a member of the MRWMP Public Advisory Committee are recommended.

SREL Response: SREL would welcome meeting with the MNR, Township representatives, and MRWMP Standing Advisory Committee (SAC) (note the PAC is no longer in effect) (as deemed appropriate) to discuss this report and its findings at the Township's convenience. It is our understanding that the Township has already been in contact with the MRWMP SAC. SREL has discussed this possibility of this committee with MNR, who has agreed to be an observer of the "joint review committee" that you suggest and could provide any regulatory input as requested. They would not, however, be a member of the actual review committee.

Note that it is our understanding that the final minimum flows to be provided over the North and South Falls will be determined by the province (MOE and/or MNR).

Comments: See comments to item 2 a.

Question 3: That a member of the MRWMP Public Advisory Committee be included on the review team for the proposed development.

Question 38: Input from this important committee would be beneficial to the final analysis of the ESR. Additional time to seek MRWMP input is required.

SREL Response: SREL has provided contact information for the MRWMP Standing Advisory Committee (SAC) Chair.

It should be noted by the Township that SREL met with the MRWMP SAC on November 4, 2009 (during the 44 day public review/comment period for the ESR) at MNR's Bracebridge offices to announce the release of the ESR document and outline the highlights of the document with focus on the proposed addendum to the MRWMP. A question and answer period followed the brief presentation.

The Water Management Planning Section of the ESR is intended to be a stand-alone document. Upon the official order for amendment, this stand alone document will be reviewed by the SAC and a determination made by MNR in consultation with the committee. The WMP order follows the EA process.

Comments: Staff has spoken to the MRWMP representative, who has indicated that they prefer to stay within the bounds of their own mandate.

The Chief Administrative Officer to make further contact with MRWMP to seek their participation

Question 4a. That the ESR addresses the heritage value of the North Bala Falls and any related heritage impact the hydro generating station may have on the falls. Ministry of Culture must sign a letter of clearance of the archaeological condition prior to any construction operations, earth moving or blasting takes place.

SREL Response: SREL received a letter from the Ministry of Culture dated March 6, 2009, accepting the Stage 2 Archaeological Report for the Project that recommends complete clearance of the archaeological condition of the subject properly.

Comment: The ultimate decision on the archaeological component of this project lies with the Ministry of Culture and is outside the jurisdiction and expertise of the Township. The Ministry has accepted the Stage 2 archaeological field assessment report prepared by Advance Archaeology on behalf of SREL

Question 4b. It is noted that the Historica document should be revised to clarify that ownership of the old Bala #1 Generating Station (Mill Street) resides with the Township of Muskoka Lakes.

SREL Response: SREL acknowledges that while the Township of Muskoka Lakes owns the "building and properly" that the Bala #1 Generating Station (Burgess GS), the actual "business" is owned and operated by Algonquin Power or its subsidiary, as are the rights to the water rights for the facility.

Comment: Change to text acknowledged.

Question 4c. Council has received recent correspondence from the Muskoka Branch of the Architectural Conservancy of Ontario expressing concern that the project will negatively impact cultural qualities of the area. Additional time is required for further dialogue between all parties to fully understand their concerns.

SREL Response: It is assumed that the Township has had sufficient time to dialogue with the Architectural Conservancy between the issuance of the elevation request and the writing of this response. No update has been received by SREL regarding this matter. SREL has, however, since contacted the President of the group (February 13, 2010) and offered to meet with its representatives. At the time of writing, however, the group has not been able to provide a date at which they are available to meet. It should be noted by the Township that this group is not a government regulatory body, but instead a possibly affected stakeholder and special interest group.

Comment: The ultimate decision on the archaeological component of this project lies with the Ministry of Culture and is outside the jurisdiction and expertise of the Township. The Ministry has accepted the Stage 2 archaeological field assessment report prepared by Advance Archaeology on behalf of SREL.

Question 4d: Official Plan: It should be noted that sections of the Planning Act speak to Green Energy Development. Further discussions with SREL and Hatch Energy are required to fully understand the proposed concepts and proposed mitigating measures.

SREL Response: As quoted on the Ministry of Municipal Affairs and Housing website 'As a result of the new approvals framework established through the Green Energy Act (GEA) and related regulations, most renewable energy developments ... with some exceptions, are exempt from the provisions of the Planning Act.' This exemption includes projects and facilities which generate electricity from renewable sources such as water (as is the case for the North Bala Falls Project), The effect of this exemption is that renewable energy projects are not affected by the following local planning instruments:

- Official plans
- Demolition control by-laws
- By-laws or orders passed under Part V of the Planning Act, including zoning, site plan, holding and interim control by-laws
- Development permit system by-laws

Also, the GEA has amended the Planning Act to allow leases up to 40 years for renewable energy projects without obtaining an approval under the Act.

Policy 1.8,3 of the Provincial Policy Statement, 2005 directs that renewable energy systems shall be permitted across Ontario - in settlement areas, rural areas and prime agricultural areas - in accordance with provincial and federal requirements.

As stated in the ESR. SREL is proposing to mitigate impacts by:

- Ensuring access is maintained to both sides of the north and south falls
- Professionally landscaping the area to create a **public** park and **river/sunset** view lookout
- Providing an upper lookout area adjacent to the road, that is handicap accessible
- Incorporating interpretive signage into the site to describe the heritage of the area and its history with waterpower.
- Assisting the Township with the constructing/installation of a year round snowmobile/pedestrian bridge between the Bala wharf and Diver's Point. The details of this are, however, still to be discussed.

Comments: Staff has obtained a legal opinion from the Township's solicitor confirming the statements relating the GEA put forward by SREL, see Appendix "A".

Question Sa: That the ESR take into consideration the potential impact that the proposed construction may have on the Bala economy, including the winter economy, by addressing safe snowmobiling movement around the site, by investigating alternative water crossings of Bala Bay.

It is recommended that an Economic Impact Study be conducted by SREL to illustrate to what sectors of the local economy may benefit and what sectors may be negatively impacted and what can be done to mitigate effects. The study should consider the creation of a local committee, comprised of SREL, the contractor and local representatives that would meet on a regular basis to identify "items of concern" prior to the issues becoming "problems". This committee should develop "proactive" business strategies in support of local businesses and retailer's i.e. roadside signage indicating "Bala Merchants are Open for Business During Construction".

SREL Response: SREL is currently considering the preparation of an Economic Impact Study, should we determine that it could provide useful information to ourselves and the community. We are currently contacting various economic consultants to discuss the terms of reference for such a study.

SREL will also look to the Township for assistance with the development of a Terms of Reference for such a report should we decide to proceed. SREL has also scheduled a meeting with the Chamber of Commerce Executive for March 25' to discuss strategies and suggestions they may have to minimize

potential negative impacts to their respective businesses during the construction period. Since this meeting was set up, the C of C has posted a notice to all members requesting input for this meeting.

A large construction project such as the one SREL are proposing, can be expected to provide some construction opportunities in the area as Contractors generally try to hire local labours. It is estimated that 4,000 to 6,000 person hours will be required for this project.

In addition, we foresee direct business opportunities for various service and retail industries in Bala and Muskoka with respect to lodging, restaurants, building supplies, fuel etc., while the contractor work force is in town for the 12-18 month period. It is estimated that an average of 15 workers will be required on site during this period. These direct opportunities generally result in "Utrickle down" or indirect opportunities for other business' in town that may see more business because the neighbouring businesses are profiting.

In addition, this may be an opportunity for some of the seasonal businesses, in particular for lodgings, to make the investment to winterize their facilities if they have a known revenue stream for 12- 18 months. Then after the construction is over, these facilities will be ready to accept snowmobiling or other winter customers in future years. It should be noted that SREL and the Township of Muskoka Lakes are in discussions about SREL assisting the Township to install a new year round snowmobile/pedestrian bridge from Diver's point to the Public Docks that would further enhance the snowmobile industry for the area.

SREL are also in the process of investigating the options for including a "buy local where possible" policy in its agreements with the project contractors.

Comment: SREL has committed to the undertaking of an Economic Impact StUdy. Staff have been involved in the development of a terms of reference for this stUdy and as recently as August 9th received a revised copy to the study outline. The Township has asked and SREL has agreed to ensure that local business input is obtained, as well as the input of the Muskoka Lakes Chamber of Commerce. The Economic Impact StUdy is expected to be initiated in August, 2010.

Question 5b. SREL should ensure existing tourism events such as the Bala Bay Regatta, Cranberry Festival etc., are minimally affected by any construction interruption.

SREL Response: *SREL is committed to working with the community to ensure that existing tourism events are minimally affected dUring the construction period. By completing all road work during the off-peak season, road interruptions should be minimized. Much of this could be attained by restricting or limiting construction activities during these events which generally occur on weekends. (Regatta - Civic holiday weekend, Cranberry Festiva/- Weekend after Thanksgiving, Craft and Gift Fair- 2 weekends: July and Oct, Antique and Nostalgia Show- 2 weekends July and October, Santa Clause Parade - weekend in November). Other events such as the summer market that occurs on Mondays, will have to be investigated with the Contractor and market organizer.*

Comment: The SREL commitment is a positive one. If the project is approved. it is recommended that this commitment and specific ideas be incorporated into the Economic Impact Study and that these recommendations become part of the project approval.

CounCil requests that a list of mitigation measures be developed for community events during the construction period also be Incorporated Into the Economic Impact Study.

Question 5c. It is recommended that SREL incorporate "buy local where possible" policies in its agreements with project contractors.

SREL Res onse: It is SREL's intention to discuss this option with the Chamber of Commerce at the March 25th meeting discussed above.

Comment: It is staff understanding that "buy local" was discussed between SREL and the MLCC. The SREL commitment is a positive one. If the project is approved, it is recommended that this commitment and specific ideas be incorporated into the Economic Impact Study and that they become part of the project approval.

Question 5d. Snowmobiling during construction: There may be safety issues with snowmobiles crossing the proposed temporary Bailey bridge if it has a steel deck.

SREL Response: SREL's engineers have indicated that an alternative deck material is entirely possible and will be included in the construction specifications (possibly timber). Note that this Bailey bridge will only be in place for the first winter season. This will not be an issue for the second winter season.

SREL has proposed a joint venture with the Municipality for the provision of a Four Season Bridge from Divers Point Park to the Bala Wharf. Further discussions with the Township and the local snowmobile club are required to address this issue.

SREL remains committed to assisting the Township with the installation of the above mentioned bridge, should the North Bala Falls Small Hydro Project proceed, and the installation/construction of the bridge coincides with the Hydro Project's construction period. Details of such a joint venture would need to be worked out in further discussions between the Township and SREL.

It should be noted that if the hydro project doesn't proceed, this bridge would have to be significantly higher and more expensive than currently planned. Alternatively, the Township would need to obtain a navigational restriction to the North Channel from Transport Canada, or it would restrict access to the existing Purk's Place Boat House and Marina (not currently zoned for marina use).

Comment: Provision of a Bailey Bridge deck of alternative deck material suitable for snowmobiles is acceptable. Confirmation of this deck material with the District of Muskoka should be confirmed.

Construction of a four season bridge, from Divers Point to the Bala Wharf, capable of use by snowmobiles in the winter time and pedestrians in other seasons, was part of a long term economic plan proposed by the Chamber of Commerce some years ago. It is staffs understanding that construction of the generating station will not proceed in 2010 if approved. Further discussion regarding the proposed four season bridge should be discussed with the new municipal council.

Question 5 e: SREL proposes to close Bala Falls Road between the CPR overpass and MR#169 during construction. Township Council approval is required for this road closure.

SREL Response: SREL will apply for approval of this road closure at the appropriate time in the construction process. Is it possible to get this approval at this point in time?

Comment: Should the project be approved, road closure approvals should be made upon the development of a formal construction plan, in coordination with the District of Muskoka.

Council requests the SREL and the District Municipality of Muskoka investigate the installation of a traffic light at the south Intersection of Bala Falls Road and District Road 169 which is currently a no left turn Intersection.

Question 6a: Section 5.2.1 of the ESR speaks to the possible crushing of rock on site. How **will** noise and dust emissions be monitored and controlled? During what time of year is the crushing proposed?

*SREL Response: Subsequent to the issuance of the ESR, SREL's engineers have concluded that no **on-site** crushing will be required.*

Comment: Agreed

Question 6b: The ESR should address the introduction of the upstream cofferdam/working platform in the North Channel and any potential backwater effect it may create. The Township requires further clarification and input from Hatch and MNR.

SREL Response: See Item 1.

Comment: Agreed. See staff comments item #1. [Reference concerns Identified in Item 1 d and 6 j](#)

Question 6c: Muskoka Road #169 will be closed for two nights during construction as the intake channel is constructed under the roadway.

SREL Response: Road closures will be coordinated with the appropriate emergency services, so as to ensure that an option exists for emergency response dUring those closures. The conditions surrounding road closures will be agreed upon before permission is granted.

Comment: Agreed

question 6d: A one lane Bailey bridge is proposed for 2 weeks prior to installation of a two lane Bailey bridge structure. Timing of the installation is requested to ensure proper coordination with other Bala events and activities.

*SREL Response: Two **2-week** lane reductions **will** be required before the installation of the **two** lane Bailey bridge structure to install it's the foundations. A second set of two 2-week lane reductions will be required upon removal of the bridge to remove the foundation work. All four weeks of lane reductions are planned to be conducted in the off-peak season (between the months of November and Victoria Day weekend). Notice of these lane reductions will be provided to the Municipality as well as the local businesses to ensure they **don't** coincide with any Bala events or activities. This timing will not be known **until** after a contractor is chosen.*

Comment: Agreed

Question 6e: Impact on Bala's Economy during Operation:

Will reduced flows over the North and South Falls have a negative effect on both existing and new spawning beds? Is 200 m2 of "manmade" spawning habitat sufficient to maintain the fishery?

SREL Response: Fisheries and Oceans Canada (DFO) is the federal agency responsible for fish habitat, while the MNR is the provincial agency responsible for fish community and fisheries. A Fisheries Act Authorization is issued by DFO when the impacts to fish habitat are adequately mitigated. A mitigation plan has been proposed. A Fisheries Act Authorization application will be filed with the DFO. This typically follows the submission of the ESR. The DFO and MNR have both reviewed the ESR and provided comments. These comments are being addressed by SREL and its fisheries

experts. Application for Fisheries Act Authorization will be filed thereafter. This authorization will be issued only upon satisfaction of the DFO conditions.

Comment: The ultimate decision on the fisheries impact of this project lies with the federal Department of Fisheries and Oceans (DFO) and MNR and is outside the jurisdiction and expertise of the Township. Township staff has spoken to DFO staff. As of early August 2010, they continue to review the SREL application.

It is recommended that DFO approval be obtained prior to any ESR project approval by the MOE.

Question 6f: *Reduced flow over the North and South Dams: The Township needs to fully understand the visual impact on both falls and potential economic impact. Consideration should be given by the province, providing it flexibility to increase the minimum flows over the dams is the proposed flows seriously affect the aesthetics of the falls.*

SREL Response: *Please see answer to Item 2 above. The final determination of the flows to be released over each of the dams will be determined by MNR. As stated in Item 5 a), SREL is currently considering conducting an Environmental Impact Study to investigate impacts from changes to the aesthetics of the falls and any possible mitigation measures.*

Comment: As per comment item #2, staffs observation is that the proposed 1 ems per dam is totally unacceptable and will dramatically affect the aesthetics of the falls, the tourism attraction that the falls creates and correspondingly will have a dramatic impact on the local Bala economy.

Although 2.0 cms may be the typical existing stop log leakage rate at the North Dam, sealing up to North Dam to 1.0 cms would be a dramatic reduction in the historical flow and attraction of the North Falls.

Review of the photographs of the South Falls at 2.0 cms on June 11th, 2009 indicates a flow that would in no means attract the attention of the tourists that visit the site every year. Further reduction of the leakage flow down to the proposed 1.0 ems, would create a nonexistent feature of only bare rocks dramatically effecting Bala's tourism draw.

Reducing the flows through and over the North and South Bala Dams will have an effect on tourism and should be considered in the economic impact study soon to be undertaken by SREL.

This reduced flow concern has been raised with SREL on numerous occasions. SREL has indicated that the final decision on aesthetic flows over both the North and South Falls will ultimately be decided by the MNR and or the MOE. Ministry representatives are asked to attend the falls and assist in establishing more reasonable flow volumes. There are many examples where aesthetic flows volumes have been included in project approvals, including the local expansion of High Falls in Bracebridge.

Staff recommends that the aesthetic flow volumes be included in the economic impact study as an impact of the project on the Town of Bala, and that mitigating measures be established as part of the economic impact study that should include higher flow rates than currently proposed by SREL.

Question 69: The Township wishes to participate in the proposed park design and discussions relating to ongoing park operations as well as the development of illustrative plaques in the Bala Falls area as recommended by Historica.

SREL Response: *SREL is committed to forming a Public Advisory Group to gather input on the park design and illustrative plaques among other things. A representative from the Township would be*

welcomed to the group when it is formed during the detailed design stage of the project (following the EA process).

Staff Comments: Agreed. The commitment to create a public advisory group should be included as an ESR commitment if the project is approved.

Question 6h: Section 9.4 should be revised to indicate that Burgess Generating Facility is owned by the Township and operated by Algonquin Power.

SREL Response: SREL acknowledges that while the Township of Muskoka Lakes owns the building and property that the Bala #1 Generating Station (Burgess GS), the business is owned and operated by Algonquin Power or its subsidiary, as are the rights to the water rights for the facility.

Comments: Agreed. Ownership of the building and the property lay with the Township. The township at this point does not acknowledge ownership of the water rights of the Burgess #1 facility. An investigation of our records is ongoing.

Public Safety Issues

Question 6i: The ESR should confirm that the upstream and downstream booms are in fact the final locations.

SREL Response: The final allocation of safety booms will be determined by Transport Canada (TC). TC has reviewed the ESR and provided written comments on the project as provided attached. These comments confirm that the proposed upstream and downstream boom locations are "reasonable" as shown in the ESR. An Application for Navigational Water Protection Act Authorization will be filed after final acceptance of the ESR. This authorization will be issued only upon satisfaction of the TC.

Comments: Staff has reviewed the Transport Canada correspondence of January 22, 2010 and has spoken to the Transport Canada official involved with the SREL application, regarding the placement of the upstream and downstream safety booms in the North Channel in early August, 2010. The Transport official has verbally indicated that he is satisfied with the placement of the safety boom provided by SREL, insofar as marine vessel safety is concerned both upstream and downstream of the generating facility.

Transport Canada expects that the upstream flow velocities in the immediate area of the Bala Wharf will not be affected insofar as vessel navigation is concerned. This includes canoes.

Transport Canada advises that the overall flow velocities downstream will actually decrease and the existing circular flow patterns will be removed making navigation of small vessels more predictable at a generator flow of 80+/- cms. For comparison sake it should be noted that a 80cms flow is one that could currently be expected in early March, the middle of April, mid November and mid December when there is little vessel traffic.

In regard to the "historic portage" which currently accesses the North Channel at Purk's Place, Transport Canada advises that alternative access points would be acceptable, including upstream at the Bala Wharf and Divers Point and downstream at the Portage Street Town Dock.

Staff remains concerned that the flow velocities in the area of the Bala Wharf will remain higher than what could safely be compensated for by someone swimming off the Bala Wharf, or someone who may have fallen off the wharf, or out of a canoe or boat.

Staff has discussed with SREL, the possibility of creating a short breakwall, built at a 90 degree angle to the Wharf into Bala Bay. This breakwall would be located at the south end of the wharf, adjacent to the North Channel. The breakwall would extend to the lake bottom, cutting off any current into the North Channel from the area in front of the Wharf, in effect creating a stilling action for these waters. If built appropriately, the north side of the breakwall could create a safe canoe access point further away from the North Channel entrance, but close to the railway underpass and access to a crossing point of Muskoka Road #169. SREL has not committed to the construction of such a breakwall.

That further discussions be held with SREL to create the potential breakwall at the south end of the Bala Wharf as a means of improving public safety, and that this requirement be included as a condition of any ESR approval.

Question 6j: The Township requires further clarification as to the expected flows in and around the Bala Wharf under various flow conditions during different times of year. A comparison of existing flow velocities is also requested (water going over the existing North Dam). The Township requires that flow velocity figures be created for the area further out into Bala Bay to understand the potential impact on recreational swimming, canoeing and boating in the area and related safety issues.

SREL Response: The attached letter from TC confirms that while velocities may exceed 0.61 m/s at the intake, the velocity near the Ba/a Wharf will dissipate to 0.3 m/s during spring low and at full plant operation. TC further concludes that navigation will not be affected in the Ba/a Wharf area.

Comment: Staff has requested further information regarding flow velocities from SREL. In-Situ flow velocities were taken the week of December 10th, 2008 but were not included in the ESR. This information has now been provided to the municipality.

Drawing No. H-327078-SK1, illustrates North Channel velocities that range between 0.3 to 0.45 m/s, roughly in the area of the most upstream safety boom, under an actual flow rate of 80 cms at the North Dam and 0.6 m/s velocities in the area of the proposed intake channel. Decreased velocities existed closer to the Bala Wharf.

Again staff expresses concern regarding public water safety. If the project is approved, it is strongly recommended that an appropriately sized breakwall be created to shelter the waters in the area of the Bala Wharf and any North Channel currents. Although Figure 6.1 indicates that flow rates through the proposed plant will be greatly reduced during the summer months, this does not preclude swimming or the potential of an individual from falling into the water during the late spring or fall seasons when generating rates are higher, nor does it preclude the possibility of a wet summer season and higher than average flow rates being passed through the plant during the peak tourist season when inexperienced boaters may be in the area.

It is staffs understanding that as a result of fisheries concerns, the maximum velocity at the intake to the generating station will be 0.6 m/s. This would result in the velocities illustrated on Figure 6.2c. It is staffs understanding that Transport Canada has based their approval on these projections.

In reviewing Figures 5.2, 6.3 and other schematics in the ESR, it is shown that the intake structure to be 9.5m wide. Assuming a lake water level of 225 m (as discussed with SREL) and an intake channel invert elevation of 219 m, (Figure 5.2), a water depth of 6.0m would be created. Assuming an intake volume of 80 cms, the velocity at the intake channel would be 1.4 m/s, not 0.6 m/s. At the maximum plant capacity of 96 cms, the intake velocity would increase to 1.68 cms. These increased velocities would have a significant impact on channel approach velocities at the outer safety booms and in the Bala Wharf area.

SREL has indicated that the actual invert elevation of the intake channel would likely be 217 m. Assuming a lake level elevation of 225 m, this invert change would create flow velocities of 1.05 m/s and 1.26 m/s at the intake structure, under generation volumes of 80 and 96 cms respectively. Again these velocities are above the 0.6 m/s required for the fisheries and would likely increase channel approach velocities at the safety booms.

It should also be noted that deepening the intake channel invert to 217 m would require further construction encroachment into the North Channel. If this were to be the case the temporary upstream cofferdam would likely extend further into the North Channel thereby reducing the capacity of the North Channel to convey flows during a high flow event. This may create flooding concerns upstream and potential property damage.

Increasing the width of the intake channel could decrease approach velocities. How wide the intake channel would have to be, and what effect a widened intake channel would have on encroachment into the North Channel and other project components should be confirmed by SREL and information be provided to The Township of Muskoka Lakes, The Ministry of Natural Resources, The Ministry of the Environment and Transport Canada

Staffs estimates are simple hand calculations but reflect a public safety concern relating to intake channel flow velocities. There is significant reason to ask for further clarification on the plant intake configuration and associated approach velocities prior to any ESR approval.

Question 6k: Clarification is required regarding the ability of the public to access the north shore of the North Falls. Will currents from the tailrace prohibit swimming in the area?

SREL Response: As illustrated on the attached figure 6.5 from the ESR, there will be no restricted access to the north shore of the North Falls, downstream of the dam. TC's attached letter also states that while velocity at the outfall will increase from 0.6 to 1.3 m/s, overall velocities will be reduced from 2.4 to 1.3 m/s. It also states that velocities will quickly dissipate to negligible. Therefore, velocities will not be significantly affected on the north shore.

SREL, however, cautions the Township that swimming in this area is currently not advised. "Danger - Fast Water - Keep Away - No Swimming" signs are posted on the downstream face of the North Dam. SREL cannot, therefore, suggest that it would be safe to swim in the area either with, or without, the installation of our project.

TC's letter does, however, indicate that because the flow from the tailrace will be straight out from the plant and perpendicular to the shore, it will eliminate the swirling (circular) flow which presently occurs in that area during high flows. The removal or reduction of this swirling water should allow for easier handling of small vessels in the zone around the tailrace.

Comments: The north shore and the river bottom of the North Bala Falls are owned by the Provincial Government who has the jurisdiction to restrict or prohibit swimming downstream of the generating station. The MNR has not indicated whether there will be swimming restrictions or prohibitions placed on swimming downstream of the North Falls or the generating station. MNR is requested to confirm any future swimming prohibitions expected.

question 6l: Confirmation is required that public will have access to the south bank of the North Channel.

SREL Response: As the attached Figure 6.5 from the ESR illustrates, there will be no restricted areas along the south bank of the North Channel, downstream of the North Dam. SREL is also proposing to construct a new set of stairs down this incline to facilitate access.

Comment: Accepted. Access to the south bank between the MR #169 and the CPR Bridge will be limited by the introduction of a security fence. See comment Item 6n. to mitigate the industrial look of the security fence.

Question 8m: Section 6.3.6.1 requires clarification regarding the "portage" route between Lake Muskoka and the Moon River.

SREL Response: *Suggested alternative portage routes to replace the current upstream "take out" on the crown land adjacent to Purk's Place, include the flat area adjacent to the Bala Wharf (Ba/a Bay) and Diver's Point, during summer low flow conditions. "Put in" locations downstream include the Town Dock in Bala Reach. The attached letter confirms that these locations are appropriate.*

Comment: Staff suggest that a canoe launch be incorporated into a short breakwall at the south end of the Bala Wharf.

Question 6n: Section 6.3.6.1 indicates that access to the water in the area of the works will be discontinued. Clarification is requested as to how this restriction will be done.

SREL Response: *The attached Figure 6.5 clearly outlines the restricted area during the operations phase of the project. The water side of the tailrace restricted area will be enclosed by a floating safety boom and the land side will be blocked with a combination of landscaping features (vegetation and rocks) as well as architecturally designed handrail systems that meet the Ontario Building Code to keep children from falling through or people climbing on.*

The landside of the restricted area around the intake will be enclosed by fencing. All attempts will be made to ensure that this fencing is either visually appealing or masked by vegetation. The upstream end of this area will be blocked with a floating safety boom.

There are currently no plans to fence the area along the upstream north shore of the North Channel as this is Municipal land. SREL would be open to discussions with the Municipality should they wish to have SREL assist with the installation of fencing and/or landscaping to provide a physical barrier between the land and water. The water in this area is currently not easily accessible by land already because of the very dense shrubbery and rocks (see photo attached). SREL also do not have any current plans to erect any barrier on the CP Rail land where it meets the restricted zone unless requested by CP Rail. Again, the water in this area is not easily accessible from land as the rail bridge abutments and vegetation restrict access to a large extent (see photo attached).

Comment: Staff recognizes the need for safety fencing around the intake channel. That being said the Township requests input to the appearance of the fencing in order to minimize any negative aesthetic appearance of the fencing along the North Channel.

In addition to the above, it is believed that the CPR is the owner of the property along the north shore of the North Channel. The Township may have an easement over these lands. This ownership is currently being confirmed by the Township. That being said, the Township should not be burdened by the cost of new fencing along the north side of the North Channel, should fencing be required as a result flow regimes that create a public safety hazard created by the hydro generating station. The proponent should be responsible for these fencing costs. These conditions should be included in any ESR approval.

Question 60 : The Township requires clarification that the trail along the north side of the upstream North Channel will not be affected by the proposed construction or operations.

SREL Response: No work is proposed to be completed on or near the north shore of the North Channel, upstream or downstream of the North Dam, with the exception of the downstream anchor for the relocated boom and the installation of the proposed year round pedestrian/snowmobile bridge should the Township wish to proceed. See above item (n) for possibilities regarding barriers to water in this area.

Comment: Agreed

Question 6p : SREL is requested to identify any restrictions or warnings that may be imposed on divers in and around the works.

SREL Response: Divers will no longer be able to dive in the area shown in yellow on the attached Figure 6.5. Generally diving is not recommended near intakes or upstream of dams. It has been suggested by members of the public that divers currently use the area off Diver's point to commence dives. While this is not recommended either with or without our project, our project should not significantly change the existing strength of the currents in this area. Divers would, however, risk the chance of swimming below the two closely spaced safety booms. This is currently the situation with the adjacent south dam. Signage will be posted to notify people of the dangers of passing into the restricted zones beyond the safety booms, similar to what is present at the south dam.

There would be a small restricted area within the tailrace boom downstream of the plant as shown on Figure 6.5. It is assumed that divers generally use the deeper areas downstream of the dams and should; therefore, they should not be significantly impacted by our project.

Comment: Should the project be approved, the recommended restricted areas shown in yellow on Figure 6.5 appear logical.

Future Employment and Economy

Question 6a : The Township requests that an Economic Impact Study be undertaken by an independent consultant to identify both the positive and negative attributes of the proposed development after the construction is completed and the plant is operational. The study should identify amongst other things, the effect on the seasonal and year round economy given the proposed changes to the North and South Falls. If negative concerns are raised the report should identify possible mitigating measures that could be taken.

*SREL Response: As stated above, SREL are seriously considering undertaking an Economic Impact stUdy to identify impacts to the local economy for the construction and operational periods and outline possible mitigation measures. SREL are proposing to hire Bracebridge Generation, a branch of Lakeland Holdings out of Bracebridge, for the plant operations, maintenance and **management**. Bracebridge generation has indicated that they foresee hiring additional staff for this role.*

Comment: SREL has committed to undertake an economic impact study of the proposed project on the local Bala economy establishing both negative and positive effects of the project as well as recommending mitigation measures that may be undertaken by SREL, local businesses, the community and Township. The stUdy is expected to start in August 2010.

It is recommended that the findings and recommendations of the study be completed prior to ESR approval to fully understand the impact on the Bala Community. To do otherwise would certainly be putting the cart before the horse for those most directly impacted by the proposed works.

Bonding and Securities

Question 6r :The Township inquires whether the Province requires a Bond or Security for the completion of the project.

SREL Resoonse: It is my understanding that the Provincial Government does not generally require such a thing for these types of projects. However, SREL are required to provide security to the Ontario Power Authority (OPA) under our FIT application and eventual FIT contract to ensure that we do proceed to Commercial Operation.

In addition, both the original MNR site release program and the recent OPA FIT application required verification of SREL's financial capability to complete the project.

Comment: Requirements for bonding and securities for the SREL proposal lay solely with the provincial government who have jurisdiction over the project approval.

Operational Method

SREL should provide information to the Township indicating how public safety will be protected when the plant is made operational (off lon) or flow levels through the plant are changed

Water and Sewer

SREL is advised that water and sewer main infrastructure pipes are located within the core construction area, potentially downstream of the Canadian Pacific Railway bridge SREL is asked to contact The District Municipality of Muskoka Public Works Department to establish if there is any Infrastructure conflict with the proposed project construction

THE CORPORATION OF THE TOWNSHIP OF MUSKOKA LAKES
MINUTES - COUNCIL MEETING
Tuesday, September 14, 2010

A Regular Meeting of Council was held on Tuesday, September 14, 2010, at 9:00 a.m. in the Council Chambers, Municipal Offices, Port Carling, Ontario.

PRESENT:

Mayor Karen Ellis

COUNCILLORS:

Brian Hare, left at 12:02 pm
and returned at 12:17 pm
Dianne Davidson
Ian Wallace
Ron Brent
Liz Denyar
Mary Grady
Patricia Arney
Nancy Thompson, left at 2:00 pm

OFFICIALS PRESENT:

W. Schmid	- CAO
C. Mortimer	- Clerk
S. Walker	- Corporate Assistant
L. Forbes	- Planning Assistant
S. Fahner	- Director of Planning
D. Pink	- Senior Planner
M. Ellis	- Planner
J. Schneider	- Interim Fire Chief
J. Stevens	- Treasurer

1. **Call to Order**

- a. Mayor Karen Ellis called the meeting to order at 9:00 am.

2. **Adoption of Agenda**

- a. Consideration of a resolution to adopt the agenda.

Resolution Number: C-1-14/09/10

Councillor Thompson - Councillor Hare: Be it resolved that the Council Meeting agenda dated September 14, 2010 be adopted.

Carried.

3. **Disclosure of Interest**

- a. Councillor Ron Brent disclosed a potential pecuniary interest with respect to items 5.d. and 9.a.2., regarding the North Bala Falls Small Hydro Project, as his company Brent Quarry could be a potential supplier for the project.

Councillor Brent left the Council table during discussions of that matter, and did not participate or vote.

4. **Receipt/Adoption of Minutes**

- a. Consideration of a resolution to adopt the Council Meeting minutes held on August 24, 2010.

Councillor Grady requested that the Council minutes be amended to include the following;

Item 5.a., paragraph 2., first sentence - Steve Taylor, MNR, Water Resource Coordinator, attended the meeting *"and verified that the MNR did determine as part of its selection criteria that the SREL proposal (option 1) could fit fully on crown land without any encroachments on the abutting property."*

Item 10.b., paragraph 5., - *"Councillor Grady requested that, in view of the willingness of many Councillors to express opposition to the project at the August 14, 2010 town hall meeting, Council consider amending the resolution to add the following; Council is opposed to the project as currently described. Council did not amend the resolution as requested."*

Council concurred with the amendments to the minutes.

Resolution Number: C-2-14/09/10

Councillor Hare - Councillor Thompson: Be it resolved that the Council Meeting minutes held on August 24, 2010 be adopted as amended.

Carried.

- b. Consideration of a resolution to receive the draft Committee of the Whole Meeting minutes held on August 25, 2010.

Resolution Number: C-3-14/09/10

Councillor Thompson - Councillor Hare: Be it resolved that the draft Committee of the Whole Meeting minutes held on August 25, 2010 be received.

Carried.

- d. Bill Purkis attended at 10:40 a.m. Re: North Bala Falls Small Hydro Project.

Councillor Ron Brent disclosed a potential pecuniary interest with respect to items 5.d. and 9.a.2., regarding the North Bala Falls Small Hydro Project, as his company Brent Quarry could be a potential supplier for the project. He left the Council table during discussion of the matter, and did not participate.

Mr. Purkis requested that Council withdraw their 2008 resolution due to public opposition to the present proposal by Swift River Energy Limited, stemming from the meetings held in Bala on August 14, 2010, and the Council meeting held on August 24, 2010. He requested that Council pass a resolution stating that Council is not in favour of the project as currently proposed.

Mr. Purkis outlined concerns regarding public safety, tourism, and economic impact. He also requested that the incoming Township and District Councils be asked to put any approval requests from Swift River Energy Limited on hold, until the new Councils are in place.

Mr. Purkis expressed concern that the economic impact study would not be complete, as a number of local businesses in Bala and area were not included in the survey.

Mr. Purkis agreed to provide a list of businesses to be included in the Economic Impact Study Questionnaire for the CAO to provide to Swift River Energy Limited.

6. **Business Arising from the Minutes**

- a. Report from the Clerk Re: Action Items from Committee Meetings. A copy of the report is attached.

Resolution Number: C-5-14/09/10

Councillor Thompson - Councillor Brent: Be it resolved that the following recommendations be enacted for action:

- August 25, 2010 Committee of the Whole meeting recommendations 2 to 10.
- August 26, 2010 Planning Committee meeting recommendations 2, 4 and 5.

Carried.

- d. By-law 2010-112, a by-law to amend By-law 2007-100, and to repeal By-law 2007-126, Debenture By-law Revision (Refer to item 9.a.3. Staff Report).

Resolution Number: C-12-14/09/10

Councillor Davidson - Councillor Denyar: Be it resolved that By-law 2010-112 a by-law to amend By-law 2007-100 and repeal By-law 2007-126 (Debenture By-law) be read a first, second and third time and finally passed.

Carried.

9. **Senior Management Team Reports and Tenders**

a. **Senior Management Team Reports**

1. Report from the Clerk Re: Appointment of Muskoka Compliance Audit Committee. A copy of the report is attached. (*Refer to item B.c. By-laws*).

The Clerk confirmed that the minimum mandatory requirement of three Committee members has been met, however the Area Clerks **will** continue to recruit one additional Committee member as an alternate.

2. Report from the CAO Re: Update - North Bala Falls Small Hydro Project. A copy of the report is attached.

Councillor Ron Brent disclosed a potential pecuniary interest with respect to items S.d. and 9.a.2., regarding the North Bala Falls Small Hydro Project, as his company Brent Quarry could be a potential supplier for the project. He left the Council table during discussion of the matter, and did not participate or vote.

The CAO provided a further update to his staff report dated August 11, 2010. He advised that Steve Taylor, Water Resource Coordinator, Ministry of Natural Resources(MNR), and Swift River Energy Limited (SREL), are available to attend the upcoming proposed public meeting, however the respective ministries are unavailable to attend.

Karen McGee, Bala Project Manager, SREL, who was in attendance at the meeting was allowed to address Council. She requested that prior to the proposed public meeting, SREL be provided with a list of predetermined questions to be answered. She also confirmed that MNR was the only ministry able to attend.

The CAD indicated that a number of the Township's concerns have not been addressed, and currently there is limited new information to provide to the public.

After some discussion, Council agreed to cancel the proposed public meeting to be held in Bala on September 18, 2010, as there was no new information, and the respective ministries are unavailable to attend.

It was the consensus of Council to support the following resolution as amended.

Resolution Number C-10-14/09/10

Councillor Davidson - Councillor Denyar: Be it resolved that Council accept the follow up Report to the Staff Report of August 11th, 2010, "North Bala Small Hydro Project" - Environmental Screening Review and further that the proposed September 18, 2010 public meeting be cancelled as no new information is currently available and the respective ministries are unavailable to attend.

Carried.

Mayor Ellis recommended that this matter be brought before Council when new information comes forward, and to request Norm Miller M.P.P., Parry Sound - Muskoka, and Tony Clement M.P., Parry - Sound Muskoka to assist in obtaining input from the other applicable government agencies.

Staff was requested to post a cancellation notice of the proposed September 18, 2010 meeting on the Township website.

3. Report from the Treasurer Re: Debenture By-law Revision. A copy of the report is attached. (Refer to item B.d., By-law 2010-112)

The Treasurer reviewed the by-law revisions for Council.

4. Report from the Clerk Re: Bala Royal Canadian Legion - Liquor License Extension. A copy of the report is attached.

The Clerk explained that both liquor license extension requests are at Council for consideration due to a timing issue.



Agenda Reference 9.a.2.

COUNCIL MEETING

DATE: 14 Sep 2010

RESOLUTION NUMBER: *CID-14/09/10*

MOVED BY: *Davidson*

S.E.C.O.N.D.E.D.B.Y.: *Elizabeth Nyd*

BE IT RESOLVED THAT: Council accept the follow up Report to the Staff Report of August 11th, 2010, "North Bala Small Hydro Project - Environmental Screening Review. *and further f that the proposed September 18, 2010 public meeting be cancelled as no new information is currently available and the respective ministries are unavailable to attend.*

RECORDED VOTE: NAYS YEAS

- COUNCILLOR ARNEY
- COUNCILLOR BRENT
- COUNCILLOR DAVIDSON
- COUNCILLOR DENYAR
- COUNCILLOR GRADY, Deputy Mayor
- COUNCILLOR HARE
- COUNCILLOR MARGESSON
- COUNCILLOR THOMPSON, Acting Deputy Mayor
- COUNCILLOR WALLACE
- MAYOR ELLIS

MOTION DEFEATED /
MOTION CARRIED

TOTALS

Karen Ellis
MAYOR



COUNCIL
AGENDA REPORT

TO: Mayor Ellis and Members of Committee of the Whole
MEETING DATE: September 14th, 2010
SUBJECT: North Bala, Small Hydro Project, Environmental Screening Review, Follow-Up Report to August 11, 2010 Report to Council

<u>RECOMMENDATION:</u>		
1) That Council accept the follow up Report to the Staff Report of August 11 th , 2010, "North Bala Small Hydro Project-Environmental Screening Review, and;		
2) That Council provide staff with direction as to actions recommended for the proposed September 18, 2010 public meeting to be held at the Bala Community Centre.		
<u>APPROVALS:</u>	Date	Signature
Submitted By: Walt Schmid, CAO	Sept. 14 th , 2010	

ORIGIN: Office of the CAO

BACKGROUND: On August 11th staff presented a report responding to Swift River Energy Limited (SREL) communications on the North Bala Small Hydro Project. The report resolution included the following:

1. That Council accept the August 11th, 2010 North Bala Small Hydro Project-Environmental Screening Review Report prepared by the Chief Administrative Officer, and the recommendations contained therein; and
2. That the Chief Administrative Officer be directed to work with Swift River Energy Limited to obtain answers to the questions identified in the report and establish time frames in which these answers will be obtained; and
3. That the Chief Administrative Officer be directed to forward a copy of the Report and Councils concerns to the MOE Director of EAAB, responsible for the North Bala Small Hydro project, requesting that the decision for the ESR Approval be deferred until answers to the municipality's concerns are addressed by SREL, most specifically those issues relating to public safety, the economic well being of the community and protection of persons and property.
4. That the Chief Administrative Officer report back to Council at its' September 14th meeting with a project status update.

ANALYSIS:

The CAO has been in communication with SREL, Hatch Energy and the Ministry of Natural Resources on numerous occasions over the last month.

Various General Questions

Various discussions with SREL (Karen McGhee) clarified the Townships questions on a number of outstanding issues identified in the August 11th report and other issues identified by Council.. SREL has committed to respond in writing to these concerns.

Technical Questions

A teleconference was held with SREL, Hatch Energy and the Township which dealt with the more technical questions raised in the August 11th report. These items included *among other things*:

- A closer approximation of the size of the inlet structure which would result in reduced flow velocities in the North Channel which have been a concern of the municipality based on original inlet structure dimensions.
- Confirmation of North Channel approach velocities with the newly sized inlet structure.
- Confirmation of flow velocities around the Bala Wharf with the new inlet structure sizing.
- Confirmation of the size of the cofferdam.
- Effect of the cofferdam on the flow capacities in the North Channel.
- Confirmation of the North Channel cross section at the cofferdam.
- Description of typical contingency planning for cofferdam removal in case of a flood event.
- Review of construction timing to determine if a more defined time frame can be established for the removal of the cofferdam, as opposed to the current forecast, prior to the next spring freshet.

Hatch Energy has committed to provide the requested information.

Economic Impact Study Questionnaire

In consultation with the Muskoka Lakes Chamber of Commerce and various councillors, the Economic Impact Study Questionnaire prepared by C4SE was reviewed and recommended modifications provided to SREL. The modifications better reflected the unique seasonal nature of the Bala business area. In addition, a list of businesses was reviewed with the Chamber of Commerce and provided to SREL for questionnaire distribution. The general area of recommended circulation reached from the Glen Orchard area, southerly to Walkers Point, westerly into the Wahta Reserve. The majority of the recommended businesses provided to SREL were in the Bala area itself. Although the majority of businesses were Chamber members there were also non chamber members included in the submitted list.

Scenic Flow Committee

In response to the Council Meeting held August 24th, Mayor Ellis committed to establish a "Scenic Flow Committee" which would assist in determining acceptable rates of flow over (and through) the North and South Dams throughout the year. A preliminary committee was developed. SREL has requested a deferral of the first committee meeting until clearer terms of reference and mandate for the committee can be established and committee members and chairperson confirmed. SREL is currently working on this issue.

Response Time by SREL

SREL has indicated that it will be forwarding a response to the municipality's questions in the next week.

Communication from the MOE

The Ministry of the Environment has communicated to SREL indicating that the EAAB Director will be deferring her decision on the elevation requests until the Economic Impact Study is completed and submitted to her. Once the Economic Impact Study is submitted, the review of all elevation requests will commence. (see attachment)

Proposed Public meeting of September 18th

Council had proposed a public meeting to be held in Bala on September 18th. There currently is limited new information available to provide to the Public. At the time of writing this report, attempts are being made to confirm if MNR staff will be available to speak at the Bala meeting.

Direction of council is requested.

FINANCIAL: Not Applicable

Ministry of the Environment

Environmental Assessment and
Approvals Branch

2 St. Clair Avenue West
Floor 12A
Toronto ON M4V 1L5
Tel.: 416314-6001
FElI: 416 314-8452

Ministère de l'Environnement

Direction des évaluations et des
autorisations environnementales

2, avenue St. Clair Ouest
Étage 12A
Toronto ON M4V 11S
Tél. :416314-8001
Télééc. ; 416314-6452



AUG 23 2010

Ms. Karen McGhee
Project Manager, P. Eng.
Swift River Energy Limited
kmcghee@m-k-e.ca

Dear Ms. McGhee:

As you are aware, I received IOS elevation requests for **Swift** River Energy Limited's (SREL) proposed North Bala Small Hydro Project (**Project**).

On May 19,2010, I made a decision that SREL conduct further study before **making** a decision on the elevation requests. This work included:

- preparing a detailed description of the proposed solution to the navigation issue regarding Purk's Place;
- providing written **confirmation** from **Transport** Canada that the proposed solution to this navigation issue is satisfactory to Transport Canada; **and**
- a proposal which **outlines** the activities SREL will undertake to detennine the local economic impact of the Project on the local **community**.

SREL provided me a response on July 16,2010, as well as a subsequent submission through an email to my staff on August 4, 2010, which included a proposal for an Economic Impact **Study**. After consideration of these submissions, and considering the nature of the issues within the elevation requests pertaining to potential **economic** impacts on the surrounding area, I have decided that I will defer my a decision on the elevation **requests** until an Economic Impact Study is completed and submitted to me.

My expectation is that the Economic Impact Study, which SREL has conunitted to complete as part of the Project, will be **made** available to the public through the Project website for their infonnation.



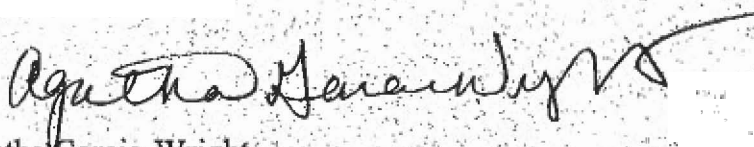
Ms. Karen McGhee

Page 2.

Once the Economic Impact Study is completed and submitted to me, the review of all of the elevation requests will commence.

Should you have any questions about the information provided in this letter, please contact Mr. Michael Harrison, Supervisor, Project Review Unit, Environmental Assessment and Approvals Branch at 416-314-7237.

Yours sincerely,



Agatha Garcia-Wright
Director
Environmental Assessment and Approvals Branch

c: Trion Clarke, Hatch Energy
requesters

b. Tenders

1. None.

10. New and Unfinished Business

- a. Report from the Director of Planning Re: By-law 2010-45, ZBA-14/10, Wilkinson, Part of Lots 20 & 21, Concession E, Part 1 on Plan 35R-5983, (Medora), Roll # 6-19-034 Concurrent with Consent Application B/07/08/10/ML.

Councillor Dianne Davidson disclosed a pecuniary interest with items 8.a. and 10.a., Wilkinson, as the subject property is owned by her mother. She left the Council table and did not participate in the discussion or the vote.

The Director of Planning provided an explanation of the property/application.

Refer to item 8.a., By-laws.

- b. Consideration of a resolution Re: North Bata Small Hydro Project.

Councillor Ron Brent disclosed a potential pecuniary interest with respect to items regarding the North Bala Falls Small Hydro Project (items S.a., S.b, S.c., and 10.b.) as his company Brent Quarry could be a potential supplier for the project. He left the Council table and did not participate in the discussion or the vote.

In response to Council, the CAO advised that a response had just been received from the Ministry of the Environment regarding the elevation requests. The Ministry has deferred the decision on the elevation requests until an economic impact study has been completed and submitted by Swift River Energy Limited. Mayor Ellis read the Ministry letter aloud, a copy of which is attached.

Mr. Jim Mcintosh, Burgar Rowe, Township Solicitor, attended the meeting. Mr. Mcintosh commented that the Township's control with respect to the project is limited in light of the Green Energy Act. He noted that there is the potential for recourse by the proponent, if the Township were to withdraw its 2008 resolution regarding option 2. He recommended that the Township focus on mitigation and to actively participate in the process. If the Township has fundamental concerns with environmental and economical impacts, then the appropriate course of action is to proceed through the Environmental Assessment process. Mr. Mcintosh also commented on the resolution that he drafted for Council's consideration today to reaffirm the Township's request for a bump-up.

After a lengthy discussion, Council suggested a scenic flow community committee be established as the public have expressed an interest in participating in this regard.

Councillor Grady requested that, in view of the willingness of many Councillors to express opposition to the project at the August 14, 2010 town hall meeting. Council consider amending the resolution to add the following; *Council is opposed to the project as currently described.* Council did not amend the resolution as requested.

Councillor Thompson requested a recorded vote.

Resolution Number C-9-24/08/10

Councillor Grady - Councillor Davidson: Be it resolved that the Council of the Township of Muskoka Lakes recognizes the significant interest of the public and Swift River Energy Limited in ensuring that the proposed North Bala Falls Small Hydro Project will satisfy all environmental concerns raised with respect to its development and ongoing operation and that the concerns are best addressed through an independent process in which properly qualified consultant experts in their particular field have an opportunity to review and make submissions in an impartial venue to ensure that the interests of the public and Swift River Energy Limited are addressed in a fair and balanced way. And further that the Council of the Township of Muskoka Lakes would like to re-affirm our previous request for a bump up of the EA process to allow a fair and complete hearing of the issues before the Board and that the Mayor and Clerk be authorized to execute any formal documentation required to initiate the request.

Recorded Vote:

Councillor Arney

Councillor Brent

Councillor Davidson

Councillor Denyar

Councillor Grady

Councillor Hare

Councillor Margesson

Councillor Thompson

Councillor Wallace

Mayor Ellis

X

X

X

Totals

 2

 7

Carried.

Councillor Brent left the meeting at 12:45 p.m.



Agenda Reference 10.b.

COUNCIL MEETING

DATE: 24 Aug 2010

RESOLUTION NUMBER: C- 24/08/10

MOVED BY:

Mary Grady

SECONDED BY:

D Davidson

BE IT RESOLVED THAT: the Council of the Township of Muskoka Lakes recognizes the significant interest of the public and Swift River Energy Limited in ensuring that the proposed North Bala Falls Small Hydro Project will satisfy all environmental concerns raised with respect to its development and ongoing operation and that the concerns are best addressed through an independent process in which properly qualified consultant experts in their particular field have an opportunity to review and make submissions in an impartial venue to ensure that the interests of the public and Swift River Energy Limited are addressed in a fair and balanced way. And further that the Council of the Township of Muskoka Lakes would like to re-affirm our previous request for a bump up of the EA process to allow a fair and complete hearing of the issues before the Board and that the Mayor and Clerk be authorized to execute any formal documentation required to initiate the request.

RECORDED VOTE:

- COUNCILLOR ARNEY
- COUNCILLOR BRENT
- COUNCILLOR DAVIDSON
- COUNCILLOR DENYAR
- COUNCILLOR GRADY, Deputy Mayor
- COUNCILLOR HARE
- COUNCILLOR MARGESSON
- COUNCILLOR THOMPSON, Acting Deputy Mayor
- COUNCILLOR WALLACE
- MAYOR ELLIS

NAYS	YEAS
—	✓
—	✓
—	✓
✓	✓
✓	✓
—	✓
—	✓
—	✓
2	7

MOTION DEFEATED []
 MOTION CARRIED [✓]

Chorlines
~~*Karen Ellis*~~
 MAYOR Clerk

TOTALS

Councillor Nancy Thompson requested a recorded vote.

**Fax
Télécopie**



Date August 23, 2010 Time/Heure OS: 15:33 pm Fax/Telecopieur 70S 765-6755

To/A Walt Schmid, **P.Eng.**
Chief Admin.istrative Officer
P.O. Box 129, 1. Bailey Street,
Port Carling, Ontario, POB IIO

From/De	Ministry of the Environment Environmental Assessment and Approvals Branch 2 St. Clair Avenue West Floor 12A Toronto ON M4V 1L5	Minister. de l' Environnement Direction des évaluations environnementales et des autorisations 2. avenue St. Clair Ouest Étage 12A Toronto (Ontario) M4V 1L5
---------	--	---

Name/Nom Michael Harrison

Telephone/Téléphone 416-314-7237

Fax/Telecopieur (416) **314-8452**

pages to follow/Pages à suivre 4

Message

Walt - attached is a copy of the letter from the director to SREL **and** a copy of the acknowledgement letter of the Town's request. Please call Adam directly if there are any questions.

regards

Ministry of the EnvironmentEnvironmental Assessment and
Approvals Branch2 St. Clair Avenue West
Floor 12A
Toronto ON M4V 1L5
Tel.: 416314-8001
FEEI: 416 314-8452**Ministère de l'Environnement**Direction des évaluations et des
autorisations environnementales2. avenue St. Clair Ouest
Étage 12A
Toronto ON M4V 1L5
Tél. : 416 314-8001
Télééc. : 416314-8452**AUG 23 2010**

Ms. Karen McGhee
Project Manager, P. Eng.
Swift River Energy Limited
kmcghee@m-k-e.ca

Dear Ms. McGhee:

As you are **aware**, I received 105 elevation requests for **Swift River Energy Limited's** (SREL) proposed North Bala Small Hydro Project (project).

On May 19, 2010, I made a decision that SREL conduct further study before **making** a decision on the elevation requests. This work included:

- preparing a detailed description of the proposed solution to the navigation issue regarding Purk's Place;
- providing written **confirmation** from **Transport** Canada that the proposed solution to this navigation issue is satisfactory to Transport Canada; **and**
- a proposal which outlines the activities SREL will undertake to **determine** the local **economic impact** of the Project on the local **community**.

SREL provided me a response on July 16, 2010, as well as a subsequent submission through an email to my staff on August 4, 2010, which included a proposal for an Economic Impact **Study**. After consideration of these submissions; and considering the nature of the issues within the elevation requests pertaining to potential **economic** impacts on the surrounding area, I have decided that I will defer my a decision on the elevation requests until an Economic Impact Study is **completed** and submitted to me.

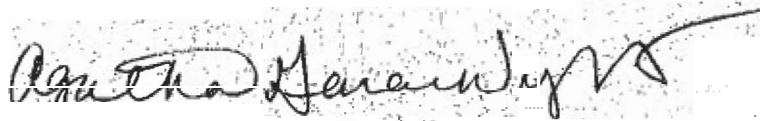
My expectation is that the Economic Impact Study, which SREL has committed to complete as part of the Project, will be made available to the public through the Project website for their information.

Ms. Karen McGhee
Page 2.

Once the Economic Impact Study is completed and submitted to me, the review of all of the elevation requests will commence.

Should you have any questions about the information provided in this letter, please contact Mr. Michael Harrison, Supervisor, Project Review Unit, Environmental Assessment and Approvals Branch at 416-314-7237.

Yours sincerely,



Agatha Arcia-Wright
Director
Environmental Assessment and Approvals Branch

c: Trion Clarke, Hatch Energy requesters

Ministry
of the
Environment

2 St. Clair Ave. West
Toronto ON M4V 1L5

Ministère
de
l'Environnement

2, avenue St. Clair Ouest
Toronto ON M4V 1L5



Dear Requester:

Thank you for your correspondence to the Director of the Environmental Assessment and Approvals Branch (EAAB) of the Ministry of the Environment, in which you request that Swift River Energy Limited Partnership (SREL) be required to prepare an individual environmental assessment (EA) for [the proposed North Bala Small Hydro Project (Project)]. I am pleased to respond on behalf of the Director.

It is the understanding of this ministry that the Project is currently being developed by SREL under the Environmental Screening/Review Stage of the Environmental Screening Process (ESP). The ESP is a planning process, prescribed by Ontario Regulation 116/01 - Electricity Projects under the EAA that proponents must follow for projects of this type in order to be able to proceed with the project under the EAA. Despite this process, proponents may, in response to requests from the public such as yours, be required to prepare an individual EA.

Staff at this ministry will review the issues and concerns you have cited as reasons for which an individual EA should be prepared. Your request has been forwarded to SREL. SREL will review your request and provide any Project documentation and other information necessary to assist this ministry in its review of your request. This information will be considered by the Director of the EAAB when making a decision about the request. Where required, ministry technical staff and staff at other agencies may also review the matter.

On the basis of this review and other matters required to be considered by the Director under the ESP, the Director will make a decision about whether or not an individual EA should be prepared for this Project. If a decision is made that an individual EA should be prepared, it is subject to a government review, following which the Minister and Cabinet must decide whether or not to approve the proposed Project. If the Director denies the request, SREL may proceed with the Project to completion under the ESP and subject to any other permits and approvals required.

[I would like to note that, as with all elevation requests, the EAAB maintains a public file that is available for viewing by any member of the public upon request. Please note that personal and other information in your letter such as name, address, and telephone number and your concerns with this Project will form a part of the public record on this



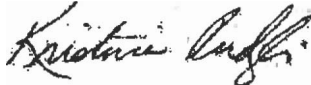
Page 2.

matter. If you wish this information to be excluded from the public file, the EAAB must be advised. Notwithstanding the above, this information may still be obtained by members of the public if the ministry is required to disclose it under the *Freedom of Information and Protection of Privacy Act*.

Thank you for taking the time to share your concerns regarding this Project. You will be notified in writing of the Director's decision once it has been made.

If you have any questions regarding the ministry's review of your request, please call Ms. Kristina Rudzki of the EAAB at 416-314-8229.

Yours very truly,



Millicent Dixon
Manager, Client Services Section
Environmental Assessment and Approvals Branch

Councillor Thompson reviewed the minutes of the meeting for Council.

Resolution Number: C-5-24/08/10

Councillor Denyar - Councillor Wallace: Be it resolved that the draft Planning Committee Meeting minutes held on July 15, 2010 be received.

Carried.

- e. Consideration of a resolution to adopt the Special Council Meeting Minutes held on August 11, 2010.

Resolution Number: C-6-24/08/10

Councillor Denyar - Councillor Wallace: Be it resolved that the Special Council Meeting minutes held on August 11, 2010 be adopted.

Carried.

5. Delegations and Petitions

Prior to relocating the Council meeting to the Port Carling Memorial Community Centre for matters related to the North Bala Falls Small Hydro Project (items 5.a., 5.b, 5.c., and 10.b.). the following resolution was passed.

Resolution Number: C-8-24/08/10

Councillor Thompson - Councillor Grady: Be it resolved that the August 24, 2010 Council meeting proceedings be moved from the Council Chambers to the Port Carling Memorial Community Centre, in order to comply with fire safety occupancy loads, for items related to the North Bala Falls Small Hydro Project, and then return to the Municipal Council Chambers.

Carried.

Councillor Ron Brent disclosed a potential pecuniary interest with respect to items regarding the North Bala Falls Small Hydro Project (items 5.a., S.b, S.c., and 10.b.) as his company Brent Quarry could be a potential supplier for the project. He left the Council table and did not participate in the discussion or the vote.

- a. Karen McGhee, P.Eng., Bala Project Manager, Swift River Energy Limited (SREL) attended at 11:00 a.m. Re: North Bala Falls Small Hydro Project. A copy of the presentation is attached.

Mrs. McGhee reviewed her presentation to Council regarding the North Bala Falls Small Hydro Project. She reviewed the Environmental Screening process and commented on the August 11, 2010 Township staff report, option 1 versus option 2 plans, the economic impact study, the aesthetic flow and the benefits of the project. Swift River Energy Limited is committed to finding a solution to the aesthetic flow with the Township. She expressed concern with respect to the possibility of Township Council rescinding its previous resolution passed in 2008 regarding option 2. Mrs. McGhee indicated that if SREL is unable to proceed with option 2, they will pursue the original option 1 plan.

Steve Taylor, MNR, Water Resource Coordinator, attended the meeting and verified that the MNR did determine as part of its selection criteria that the SREL proposal (option 1) could fit fully on crown land without any encroachments on the abutting property. He addressed the site release policy/process and verified that the Bala site met the criteria for MNR approval. The business plan is the responsibility of the proponent. Mr. Taylor noted that the proponent is going to revisit the velocity testing study upstream of the CP Railway Bridge. Mr. Taylor noted a flow distribution plan for the falls must meet legislation and any amendments must be approved by MNR.

Rick Donnelly, Engineer. Hatch Energy, attended the meeting and addressed the cofferdam configuration with respect to water flows. He indicated that more detail could be provided in the future and that water levels will be maintained. He also addressed concerns related to liability insurance matters with respect to the project.

- b. Sandy Currie, Moon River Property Owners Association, attended at 11:45 a.m. Re: North Bala Falls Small Hydro Project. A copy of the presentation is attached.

Mr. Currie thanked Council members and the CAO for attending the August 14, 2010 information meeting in Bala. He suggested that a joint community committee be established to focus on all aspects of the project to ensure all questions are answered. He also recommended that the owners of SREL attend a meeting to address questions and concerns. Mr. Currie also questioned the economic benefit to Bala with respect to the ability of SREL to buy locally.

- c. Alice Murphy, attended at 12:00 noon Re: North Bala Falls Small Hydro Project. A copy of the presentation is attached.

Mrs. Murphy reviewed her presentation stressing the significance of the scenic flow, the importance for a bump-up of the Environmental Assessment Process and noting that the hydro proposal is not compatible with the existing recreational use. She commented that there are many unanswered questions and concerns remaining and urged Council to withdraw the 2008 resolution regarding option 2. She also requested that she be able to work with the Township and District Planners to reflect the recreational parkland use of the property.

THE CORPORATION OF THE TOWNSHIP OF MUSKOKA LAKES

MINUTES - COUNCIL MEETING

Tuesday, August 24, 2010

A Regular Meeting of Council was held on Tuesday, August 24, 2010, at 9:00 a.m. in the Council Chambers, Municipal Offices, Port Carling, Ontario and the Port Carling Memorial Community Centre.

PRESENT:

Mayor Karen Ellis

COUNCILLORS:

Brian Hare
Dianne Davidson
Ian Wallace
Ron Brent (Left @ 12:45pm)
Liz Denyar
Mary Grady
Nancy Thompson
Patricia Arney
David Margesson

OFFICIALS PRESENT:

W. Schmid - CAO
C. Mortimer - Clerk
R. Newton - Clerk's Assistant
L. Forbes - Planning Assistant
S. Fahner - Director of Planning
D. Pink - Senior Planner
L. Troup - Public Works Superintendent

1. Call to Order

- a. Mayor Ellis called the meeting to order at 9:08 am.

2. Adoption of Agenda

- a. Consideration of a resolution to adopt the agenda as amended.

Councillor Grady requested that delegations from Sandy Currie and Alice Murphy be added to the agenda. Council concurred with this request.

Resolution Number: *C-1-24f08f10*

Councillor Wallace - Councillor Arney: Be it resolved that the Council Meeting agenda dated August 24, 2010 be adopted as amended to remove item 9.a.4. Mayor's Golf Classic Report, and add items 5.b. Sandy Currie, S.c. Alice Murphy.

Carried.

3. Disclosure of Interest

- a. Councillor Dianne Davidson disclosed a pecuniary interest with items 8.a. and 10.a., Wilkinson, as the subject property is owned by her mother.



Agenda Reference

COUNCIL

DATE: August 24 2010 RESOLUTION NUMBER: C- 8 -24/08/10

MOVED BY: Nancy Thompson

SECONDED BY: Nancy Grady

BE IT RESOLVED THAT the August 24,2010, Council meeting proceedings be moved from the Council Chambers to the Port Carling Memorial Community Centre. in order to comply with fire safety occupancy loads, for items related to the North Bala Falls Small Hydro Project, and then return to the Municipal Council Chambers.

CM

RECORDED VOTE:

- COUNCILLOR ARNEY
- COUNCILLOR BRENT
- COUNCILLOR DAVIDSON
- COUNCILLOR DENYAR
- COUNCILLOR GRADY, Deputy Mayor
- COUNCILLOR HARE
- COUNCILLOR MARGESSON
- COUNCILLOR THOMPSON, Acting Deputy Mayor
- COUNCILLOR WALLACE
- MAYOR ELLIS

NAYS YEAS

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

MOTION DEFEATED

MOTION CARRIED

TOTALS

Karen Ellis
OR



Agenda Reference 2.a.

COUNCIL MEETING

DATE: 24 Aug 2010

RESOLUTION NUMBER: C- \ -24/08/10

MOVED BY: _____

SECONDED BY: _____

BE IT RESOLVED THAT: the Council Meeting agenda dated August 24,2010 be adopted as amended to remove item 9.a.4. Mayor's Golf Classic Report.

5b .. Sandy Christie 6c Alice Murphy * *Am*

- RECORDED VOTE:
- COUNCILLOR ARNEY
- COUNCILLOR BRENT
- COUNCILLOR DAVIDSON
- COUNCILLOR DENYAR
- COUNCILLOR GRADY, Deputy Mayor
- COUNCILLOR HARE
- COUNCILLOR MARGESSON
- COUNCILLOR THOMPSON, Acting Deputy Mayor
- COUNCILLOR WALLACE
- MAYOR ELLIS

	NAYS	YEAS
	---	---
	---	---

MOTION DEFEATED

MOTION CARRIED

TOTALS

Karen Ellis
MAYOR



August 23, 2010

Mrs. Karen Ellis
Mayor
Township of Muskoka Lakes
1 Bailey Street
Port Carling, Ontario
POB IJO

Dear Mayor Ellis,

I am writing on behalf of the members of the Moon River Property Owners Association {MRPOA}. On their behalf, thank you for allowing us the opportunity to make this presentation today.

I would like to express the sincere appreciation of our members to you and to the Councillors who attended the Town Hall meeting in Bala on August 14, 2010. I realize that the meeting was highly charged and, at times, emotions ran high. Nevertheless, I think it was a success and afforded you, and members of Council, a first-hand opportunity to engage with the citizens of Bala and to hear just how emphatically they oppose the idea of developing the North Bala falls for the purpose of generating electricity.

I would also like to publicly thank Mr. Walt Schmid, CAO, for the fine report that he presented at the meeting. It was very informative and contained several new revelations regarding the project.

It was my understanding that a special meeting of Township Council was to be held last week in order to propose and adopt a motion by the Township of Muskoka Lakes to oppose the construction of a generating station on the North Bala Falls site. Instead, the motion is, as I understand it, to be proposed and voted upon during today's meeting. I know that all the members of MRPOA are expecting that it will pass with a very dear majority of council.

MRPOA would like to reintroduce an idea that was first presented to this council on December 14, 2009 by way of a letter from me to you. In that letter I wrote the following:

"MRPOA would welcome the opportunity to work, in conjunction with Mr. Schmid and Staff of the Township of Muskoka Lakes, on a joint committee to ensure a full and complete understanding is obtained from Hatch Energy and SREL regarding the significant number of questions that remain unanswered subsequent to the review of the ESR."

Moon River Property Owners Association
P.O. Box 157
Bala, Ontario P0E 1A0

Presentation to Council Aug 24 2010 5.b.



I have not, as of today, received an answer to the letter or received any feedback regarding the idea of a joint committee. Given the lack of substance in many of the SREL letters and public statements recently, and the considerable public interest in the entire matter, perhaps now would be the right time to strike just such a committee. To further highlight this point, it is **worth** recalling your memory back to the recent Town Hall meeting wherein Mr. William "Buck" Rogers, a former Township Mayor, made precisely the same suggestion.

While on the subject of specific answers from SREL, I would like to make the following points.

1. While presenting the SREL side of many of the issues of concern, Ms. McGhee is a consultant working under contract to SREL. In the future, she may leave the project and this makes us very scared about her actual ability to guarantee that commitments, she makes today, will in fact, be adhered to by the owners of SREL in the future.
2. Why doesn't the Township request that the shareholders of SREL, who I believe are Mr. Wildman, Mr Fisher and Mr. Zweig, to attend a meeting of Township Council and to be prepared to bring very specific and detailed responses to our many questions? As the owners of the facility, surely they can be more specific and credible than any SREL employees could possibly be.
3. On behalf of SREL, Ms McGhee has touted the concept of a "buy local" campaign in an attempt to show and sincere interest in supporting the Baja economy dUring the construction period. As these claims seem to be significantly exaggerated, it makes one wonder:
 - a. Where will the contractors purchase diesel fuel? The only gas station in Bala, The Baja General Store, sells only gas, no diesel.
 - b. Where in Bala might SREL purchase their generator components? There is no business in Baja, or even Muskoka to my knowledge, that manufactures such equipment.
 - c. Most of the construction work will involve preparing the site, digging the generator recesses into the bedrock and building the concrete facilities that will supply the water to the generator and power station itself. Since most of the workers for this portion of the work will **likely** be current residents of Bala or the Muskoka District, jUst how many incremental hotel nights might the Bala Bay Inn and other area hotels gain above their current occupancy rates? The same question can be asked with regards to the various eateries and entertainment businesses in Bala?



4. In recent days Ms. McGhee has been quoted a saying that SREI could begin construction on the Option 1 Site almost immediately if the Option 2 site is rejected. This is clearly an idle threat designed to coerce Council into supporting their bid to use the Option 2 Site. This makes no sense from a business perspective because of the following:
 - a. While the proponent may claim they could fit the entire power station onto the MNR land, they would not have room for the driveway and other maintenance access.
 - b. The proponent would need to go through the entire environmental screening process, and most of the studies again (effect on fish spawning and entrainment, traffic disruption, north channel obstruction during construction, building design, and on and on). This would take more than a year, and they would again encounter significant opposition from the public.
 - c. Construction would require blasting directly adjacent to the north dam, which would be a significant risk to the dam and require significant technical study.
 - d. The Option 1 Site would generate substantially less power and therefore be much less profitable as the water intake would be severely constricted due to the extremely shallow depth of water adjacent to the north falls and due to the great difficulty of blasting below the highway bridge.
 - e. Use of the Option 1 Site likely could not be built due to the danger the water exiting the tailrace would pose to the public.

As a final comment, I would like to state very clearly that MRPOA believes that, as taxpayers, property owners and ~~voters~~ **our** feelings, wishes and expectations should be safeguarded and given priority by the Township of Muskoka lakes in this matter. SREL is not currently paying any fees or taxes to help support Township expenses and, at the August 14th meeting, CAO Schmid told the audience that the Township will not be receiving any income stream from the facility if is built.

Thus we cannot see any reason why The Township of Muskoka lakes should support or encourage this project to be approved.



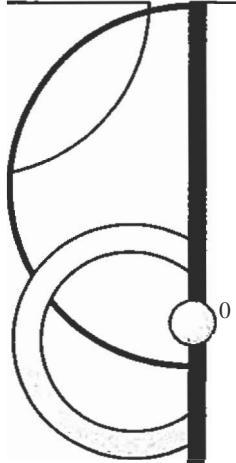
To conclude this letter, I will once again state:

1. Our support for you and Council in the passage today of a motion to oppose construction by SREL.
2. Our desire to work with all parties to create and facilitate a meaningful dialogue through the creation of a joint committee.
3. Our strong desire to get the facts onto the table and to avoid the PR spin to which we have become subjected by calling upon the shareholders of SREL to answer our, and your, direct questions with hard facts.

Sincerely,

A handwritten signature in cursive script, appearing to read 'J. A. Currie'.

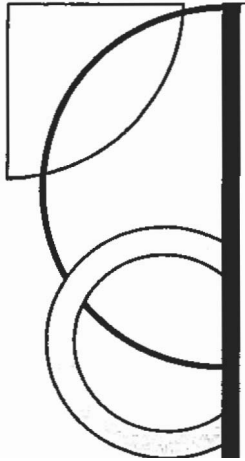
J. A. (Sandy) Currie
President
Moon River Property Owners Association



Bala Falls

Proposed Hydro Generating Station

Township Council Meeting
August 24, 2010



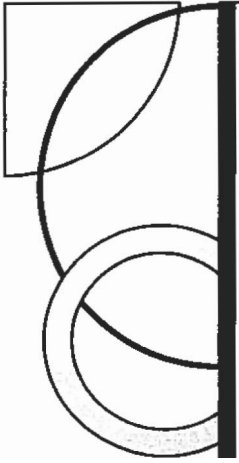
Hydro Stations Incompatible with Recreational Use by a Community

- **Does not consider pre-existing recreational use or economic driver of the community**
- **Ministry of the Environment's process did not require finding the best site**
- **Both proposals require land from the District**




Class vs Individual EA Project

- Class EA Projects 90% of all projects:
 - Routine and predictable
 - Environmental effects can be mitigated
 - Self-assessment, proponent-driven process
- Individual EA projects are:
 - Large and complex projects with the potential for significant environmental impacts
 - Bump-up recommended by the Environmental Assessment and Approvals Branch (EAAB)
 - Decided by the Minister of the Environment



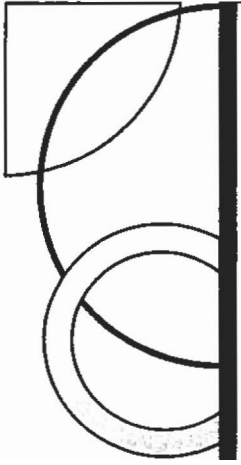
Evaluation Criteria for Bump-Up

- What makes this project different?
- What type of concerns have been raised?
- How significant are these factors and differences?
- What is the benefit of elevating the assessment?
- Is there any other legislation that is relevant?



Perception at Provincial Level of Township & District Support

- "I have strived to effectively communicate concerns to both the Minister of Natural Resources and Minister of Environment.."
- "I have tried to be as informative and instructive as possible in communicating objections to the government."
- As you likely know, there is municipal and District support for the project and no doubt- the provincial government has given consideration to that fact.



Township is NOT Powerless!

- The most important line of defense that we have is at the Township level.
- District takes its direction from the individual Townships, and Township needs to take its direction from its constituency.
- Wards A, Band C
- Our provincial and federal representatives are on record as taking their guidance from the community as represented by the Township and District



What about the Green Energy Act?

- Green Energy and Green Economy Act does not require municipality to provide public land to a private developer
- Safety should be our primary concern
- Bala Falls represents the community's primary economic anchor
 - Reason that people come to Bala
 - The Falls will become essentially dry rock.
- Small amount of energy produced from this project will principally be in spring & fall when not needed, and will in no way compensate for the economic destruction of the community



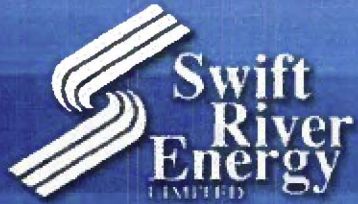
Not a "Done Deal"!

- Both the Township and District only agreed to consider (and subject to certain conditions) the use of District land for this purpose.
- It is now clear that this consideration should be withdrawn
- Green Energy and Green Economy Act do not require municipality to provide public land to a private developer



What is the Ask of Council?

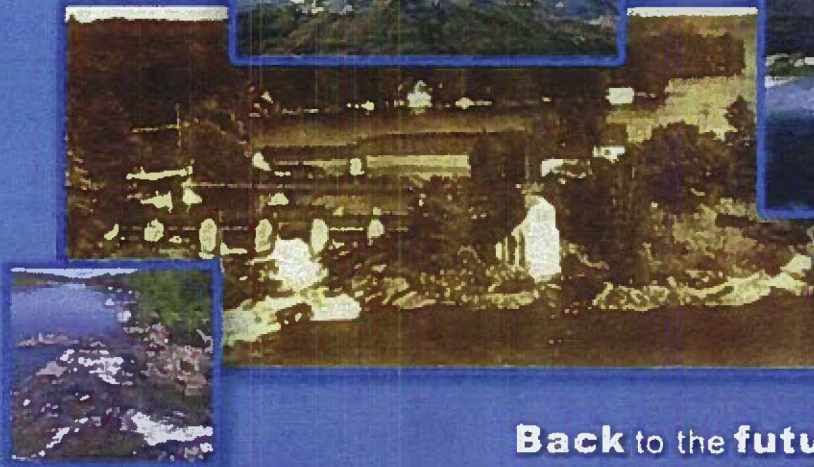
- Reflect the views of the constituency
- Withdraw consideration of use of District Land
- Continue to communicate vigorously with the MOE to ensure that this project is bumped up to an Individual Assessment
- Continue to have very clear dialogue with the MNR and Ministries of Culture and Tourism regarding the heritage and recreational pre-existing use of this space
- Work with Township and District Planners to have the District portion of Burgess Island reflected in the Official Plan as Open Space and further characterized as public parkland, consistent with its ongoing usage.



Bala Falls

small **hydro** project

Presentation to:
township of Muskoka Lakes Council Meeting
August 24, 2010



Back to the future
building on **Bala's** legacy

Presentation to Council
Aug 24 2010

S.a

Agenda

Environmental Approvals Process

Township Staff Report

Option 1 versus Option 1 Plans

Questions



BalaFalls
small hydro project

Back to the future
building on **Bala's** legacy

Outstanding Information

The Township should wait until the information that they have requested from SREL is available prior to passing a judgement on the project

Economic Impact Study- started in early August, to be completed by end of September

Staff Report- SREL will be providing a written report to the Township in response to the Staff Report within a week

- *Aesthetic Flows* - Discussions have still not occurred with Township

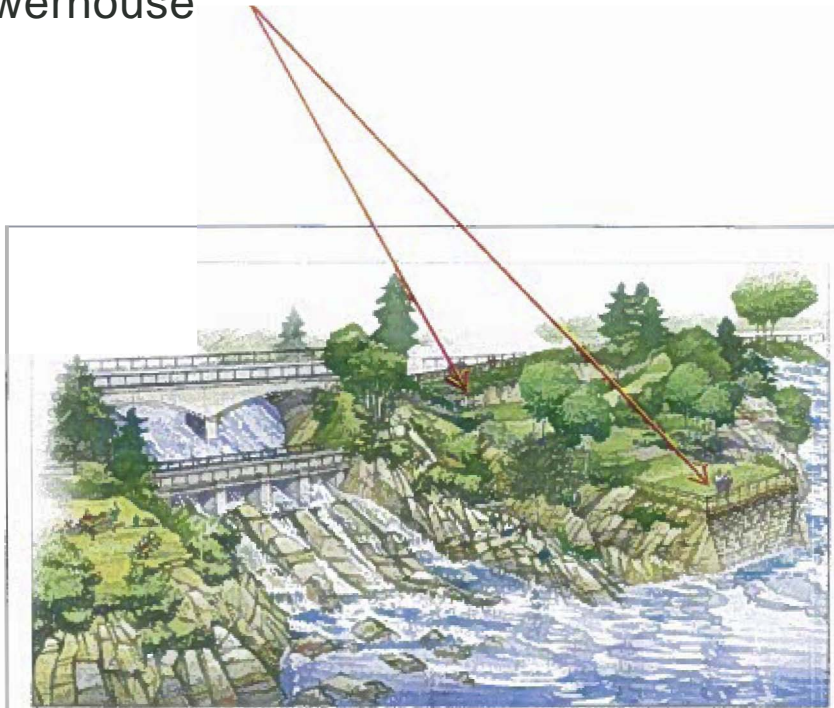


BalaFalls
small hydro project

Back to the future
building on Bala's legacy

Option 2 Renderings

Lookouts above powerhouse



BalaFalls
small hydro project

Back to the future
building on Bala's legacy

Federal and Provincial Approval Process

Environmental Screening- Regulatory agencies review conceptual design

Detailed Design - incorporates findings of screening

Permitting Stage- Regulatory agencies issue approvals and permits based on detailed design

Construction - 12-18 months (agencies monitor construction activities)

- **Monitoring**- Regulatory agencies monitor project for years following construction.



BalaFalls
small hydro project

Back to the future
building on **Bala's** legacy

Township Staff Report - Outstanding Items

- Outstanding Items (20 pages = only 6 items)

Economic Impact Study - in progress, expected to be completed by end of September.

- **Water Levels During Construction** - Cofferdams designed to conventional engineering practice of 1 in 20 year SPRING flood flows

Water Velocities at Bala Wharf / Breakwater with Canoe Launch - NOT required (but willing to discuss merits)

Flows and Velocities at Intake - Township's calculations based on wrong dimensions - NO fish chowder!

Flows Over North and South Dams - Advisory Committee

Fencing at CPR land - To be discussed with land owners



BalaFalls
small hydro project

Back to the future
building on Bala's legacy

Economic Impact Study

SREL agreed to complete this study at urging of this Council

- Study commenced in early August

Expected completion by end of September

Can council adequately form an opinion on the project without this study - that they said was essential?



BalaFalls
small **hydro** project

Back to the future
building on **Bala's** legacy

Water Levels / Reduced Flood Capacity / Cofferdam

Is the Township questioning standard engineering design specifications for this temporary structure, or the calculations completed by the professional engineers at Hatch?

If so, what professional experience is this opinion based on?



BalaFalls
small **hydro** project

Back to the future
building on **Bala's** legacy

Water Velocities at Bala Wharf and Breakwater

Is the Township questioning the measurements completed by professional surveyors and engineers, or are they questioning the Ministry of Natural Resources and Transport Canada's conclusions based on these measurements?

If so, what professional experience is this opinion based on?



BalaFalls
small **hydro** project

Back to the future
building on **Bala's** legacy

Velocities at Intake

Township staff's calculations based on wrong dimensions.

Hatch's Professional Engineers state "There is no direct connection with size of the intake as it relates to the velocities at the public dock, and this is not a relevant comparison."



BalaFalls
small **hydro** project

Back to the future
building on **Bala's** legacy

Proposed Summer Flows at North Dam (1 - 2 m³/s)



BalaFalls
small **hydro** project

Back to the future
building on **Bala's** legacy

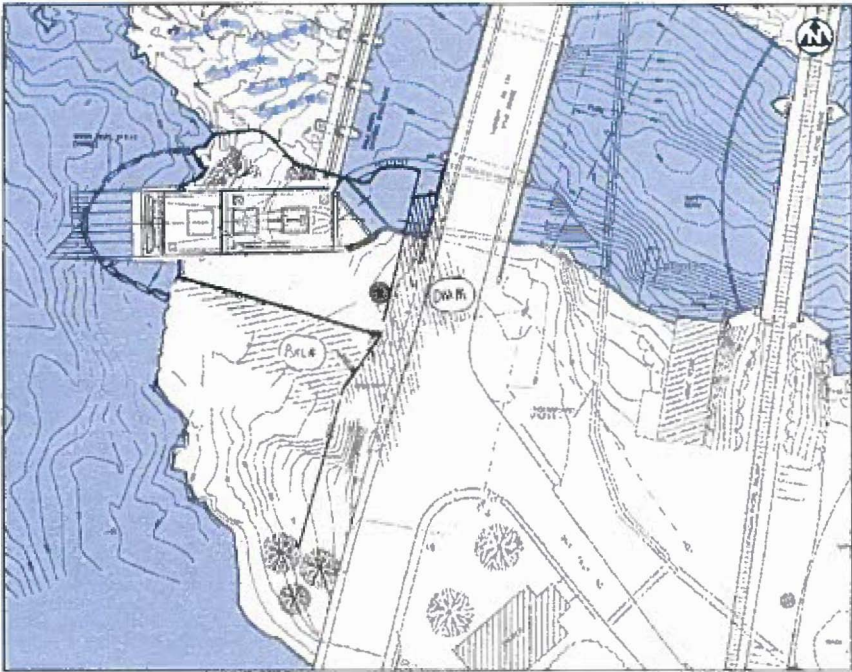
Proposed Summer Flows at South Dam (2 m³/s)



BalaFalls
small **hydro** project

Back to the future
building on **Bala's** legacy

Option 1 Rendering



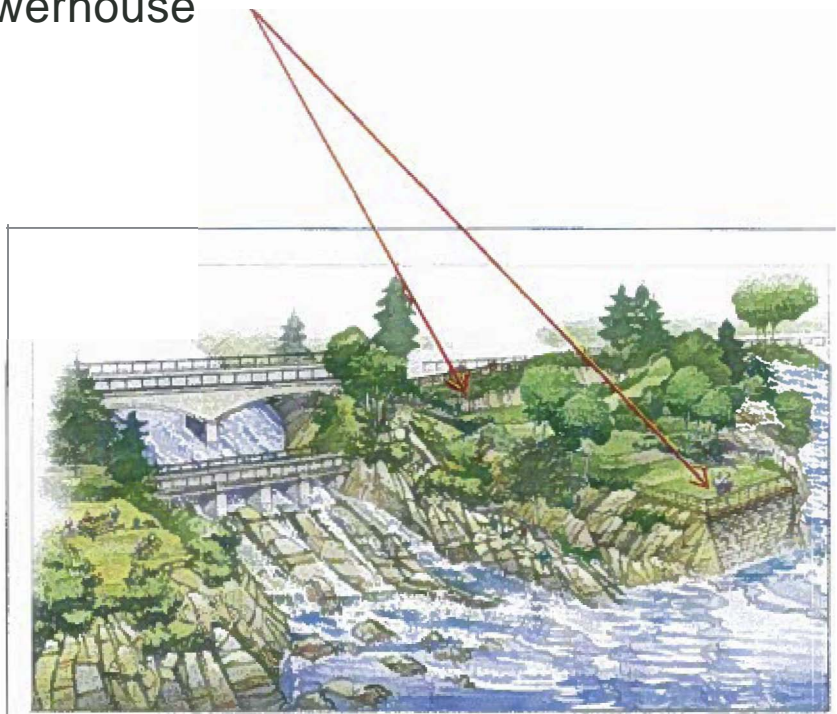
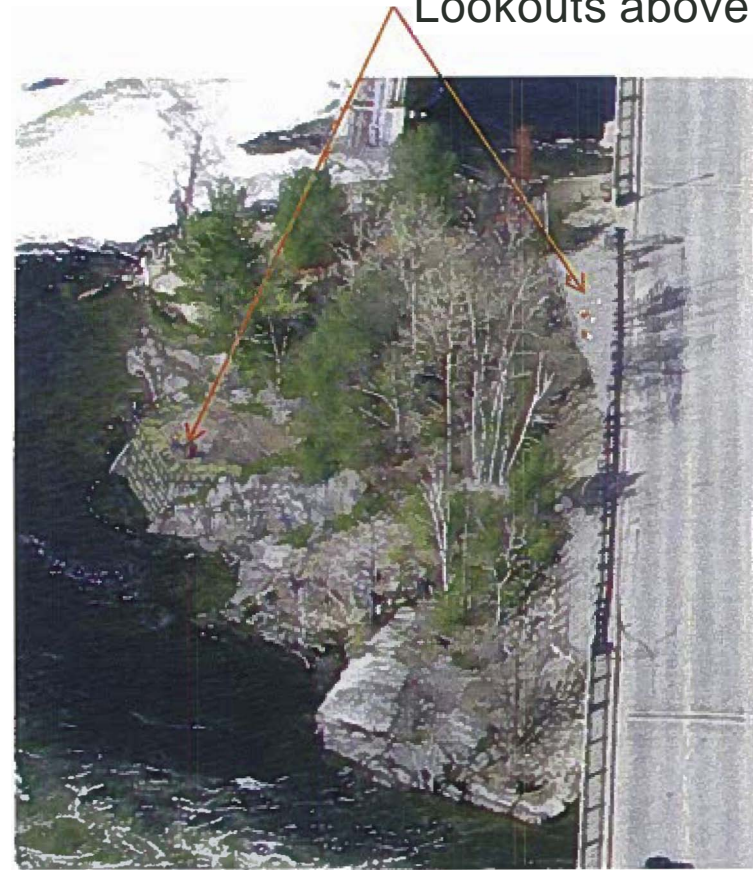
Alternative 1 General Arrangement Rev. C

 **Bala Falls**
small hydro project

Back to the future
building on **Bala's** legacy

Option 2 Renderings

Lookouts above powerhouse



BalaFalls
small hydro project

Back to the future
building on **Bala's** legacy

What's In It For Bala?

- Option 2 Plan Benefits

 - Better, safer access to the North Bala Falls

 - Public park with sunset view lookout

 - Subterranean Design

- Lease Agreement with District that could provide:

 - Long-term revenue stream

 - Assistance with Project Initiatives such as pedestrian / snowmobile bridge



BalaFalls
small **hydro** project

Back to the **future**
building on **Bala's** legacy

If We Are Unable to Proceed with the Option 2 Plan

If SREL is unable to proceed with the vastly superior Option 2 Plan, Swift River WILL pursue the original Option 1 plan!

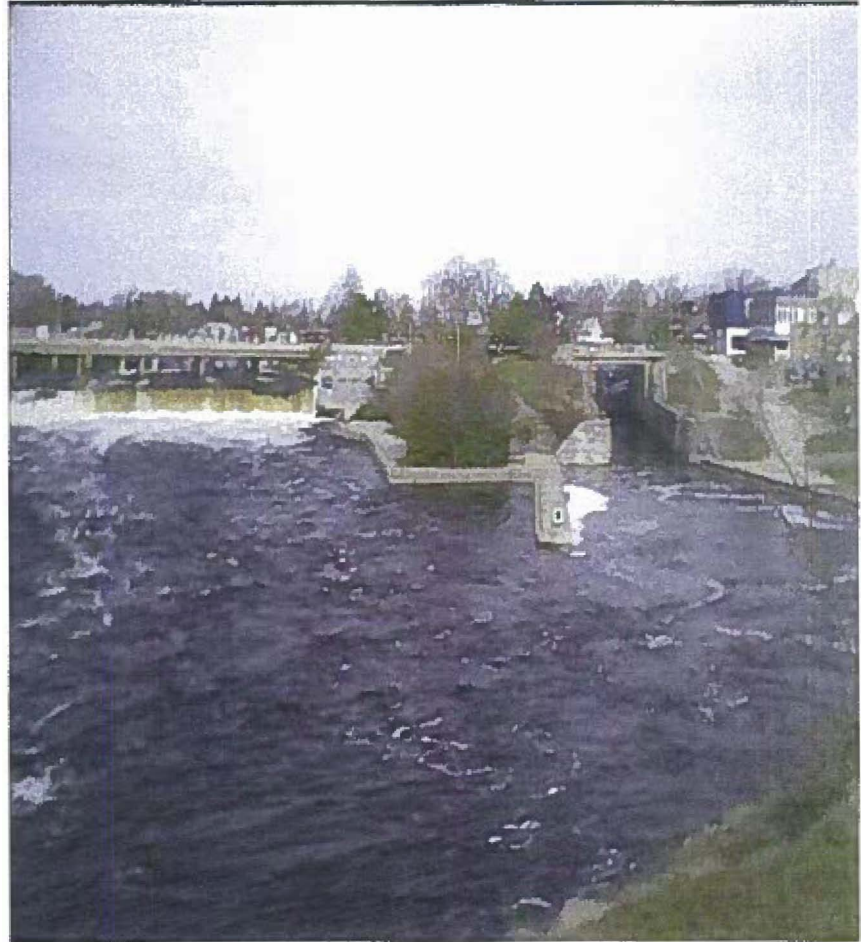
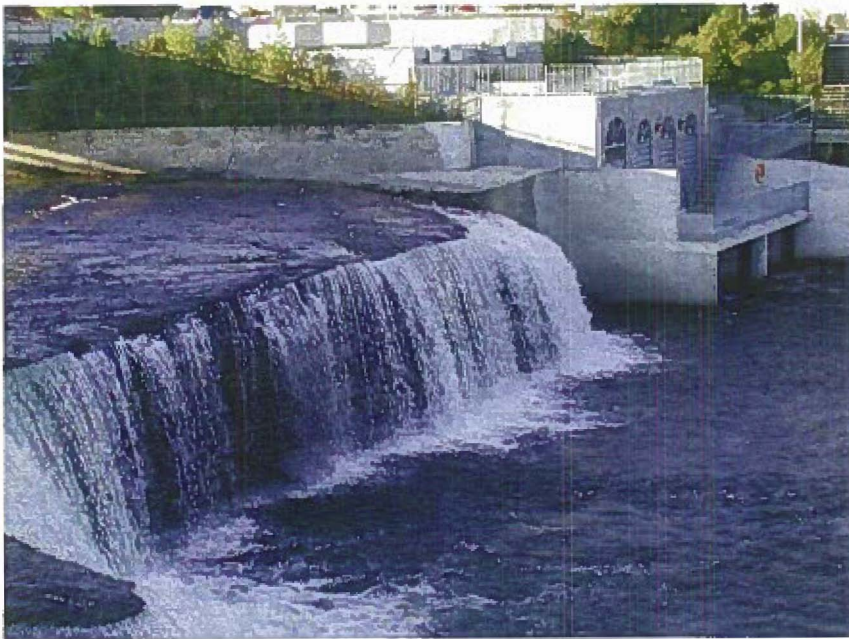
The economic and technical viability of the Option 1 Plan has been confirmed.



BalaFalls
small hydro project

Back to the future
building on **Bala's** legacy

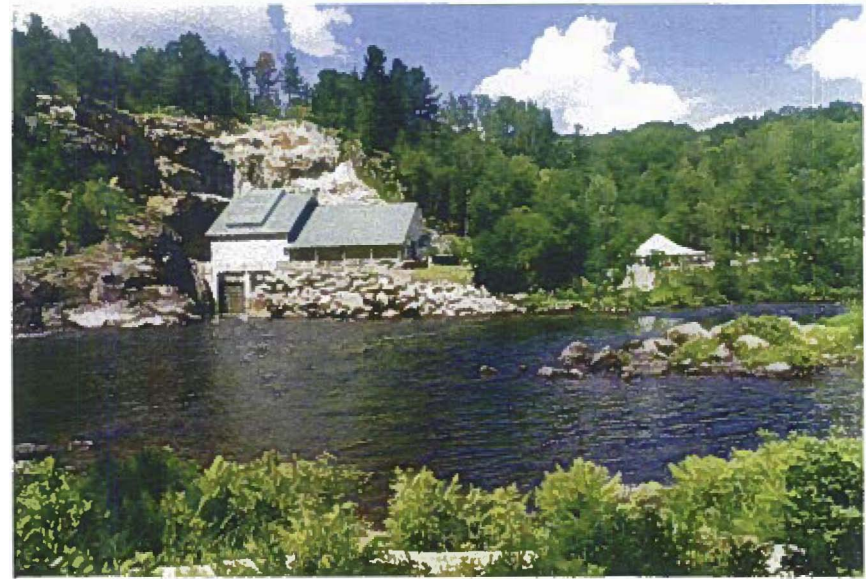
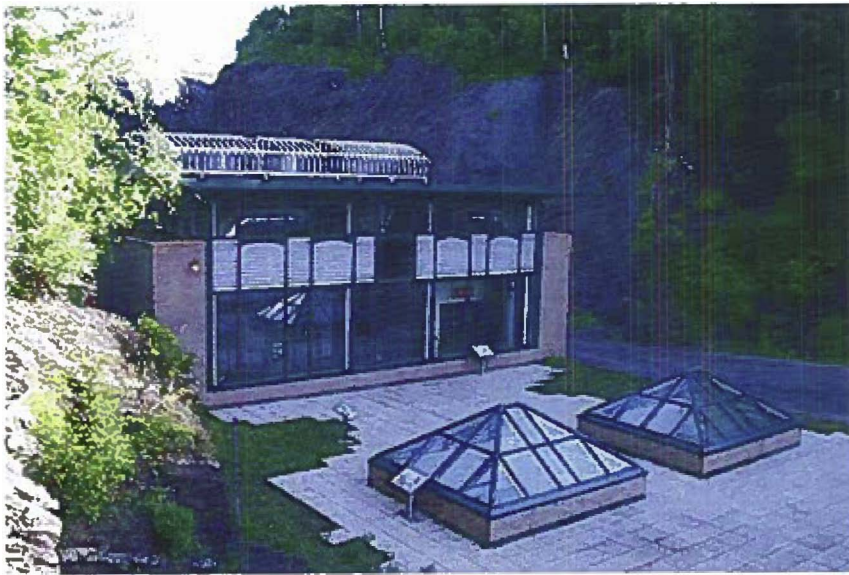
Other Successfully Integrated Waterpower Projects



BalaFalls
small hydro project

Back to the future
building on **Bala's** legacy

Other Waterpower Projects at Popular Parks



BalaFalls
small hydro project

Back to the future
building on **Bala's** legacy

Questions?



BalaFalls
small hydro project

Back to the future
building on **Bala's** legacy

4. **Delegations and Petitions**

- a. Jeff Mole attended at 9:30 a.m. Re: North Bala Falls Small Hydro Project. A copy of the presentation is attached.

Mr. Mole spoke to the Green Energy Act, the hydro project application and the environmental screening process. The main goal is to find a solution for Bala with positive effects. There are public concerns with safety issues and negative impacts on the environment.

He requested the Township; to consider a municipal partnership with a Community Organization to study a south channel option, to consider the need for a Bala Falls Advisory Committee, and to ask the District of Muskoka not to dispose of the land at the Bala Falls until after the suggested advisory committee completes its report.

5. **Items of Business**

- a. Report from the CAO Re: Huckleberry Rock Trail. A copy of the report is attached.

The CAO reviewed the report and noted the trail improvements proposed by Mr. Lloyd Ross which include culverts, trail entrance, pavilion, interpretive plaque dedicated in memory of Paul Alan Dickie and numerous benches along the trail.

Council thanked Mr. Ross for his generous contribution. In response to Council the CAO advised he would review the impact this may have on the snowmobile trail. A suggestion for washroom facilities was noted and the CAO confirmed he will notify Mr. Ross of this item for a possible future project.

Resolution Number SC-4-11/08/10

Councillor Grady - Councillor Thompson: Be it resolved that Council approve the Huckleberry Rock Trail Improvement Works proposed by Mr. Lloyd Ross and thank him for his generosity in contributing to the community of Milford Bay and the Township of Muskoka Lakes.

Carried.

- b. Report from the CAO Re: North Baja Falls Small Hydro Project. A copy of the report is attached.

August 11, 2010 Township Council Presentation by: leffMole

When the Green Energy Act was being introduced, Premier McGuinty was quoted in the Toronto Star as saying "We're going to say to Ontarians that it's okay to object on the basis of safety issues and environmental standards; if you have real concerns there, put those forward and we must find a way to address those".

Opposition to the Bala Falls proposal is not NIMBYism. This is a term used to describe groundless opposition by members of the public to new development proposals close to them. The public concerns with the current Bala Hydro proposal have merit and should be grounds for refusal of this ill-conceived proposal.

The Environmental Screening Process and the Green Energy Act are designed to curb NIMBYism. At the same time, the approvals process is designed to protect public values and consider measures that minimize or mitigate the negative impacts. The key to a successful outcome for Bala is to **try** to find a solution with significant positive effects and lasting benefits for future generations in Muskoka OR else we should do nothing.

Members of the public have expressed concerns with safety issues and negative "environmental" impacts. These real concerns have been brought forward and so far the province has not found "a way to address those concerns."

Council should be concerned with the flawed "applicant of record" selection process. There is nothing in ~~the~~ Green Energy Act or other legislation that requires the township or the district to abide by this provincial selection process or that would force Muskoka to dispose of public land to this applicant. By the **way**, this selection process is currently under review by the province and significant changes may be made shortly. Accordingly, I hope the district councilors will not to allow disposal of public lands at Bala Falls until the provincial site release policy review is completed. I also hope that members of the public will take the time to search online for the Environmental Bill of Rights and submit comments in Phase 2 of this policy review.

The township and the district could protect Muskoka's interests by refusing to allow the use of this public land. The current option does not adequately mitigate the damage caused to Bala Falls and therefore is not the "preferred option". The applicant has selected an inappropriate site therefore; NO hydro facility *IS* the "preferred option".

Some hydro projects are met with open arms by communities when communities are given the opportunity to be involved in the process and enjoy the benefits. Provincial policies and programs encourage a community approach to hydro projects. A community based solution could have significant positive effects and may be the best strategy for protecting

the value of Bala Falls and therefore should be part of a broader review supported by council.

I hope that council will consider if a south channel concept is a viable and less destructive option. This option would use a small portion of the Precambrian shield parking lot adjacent to the south channel and may be done with minimal impact on public and scenic values. This option should be fully explored as it could demonstrate that the **current** proposal is not the "preferred option" contemplated by district council on October 14, 2008. We cannot rely solely on the word of the proponent without supporting data.

There is a non-profit organization positioned to undertake the task of studying the south channel concept. Accordingly, I am here today to ask the township to consider a municipal partnership with this organization to determine if there is an alternative that is positive for Muskoka Lakes.

What happened to receiving "further public input" as outlined in Resolution Number: *C-29-08/07/08*? Does the proponent driven screening process really provide adequate protection of the values and interests of Muskoka Lakes and its residents? I respectfully submit that it does not. Therefore, my second ask is that council and staff reconsider the need for a Bala Falls advisory committee. Advisory committees have been used in the past to receive public input on important matters. They are used as a way to report on the views and concerns expressed by members of the public and to consider ways to protect the interests and values of Muskoka Lakes.

Finally, I would ask the township to request that the District of Muskoka not make any decisions regarding disposal of land at Bala Falls until after a township lead public input process is completed.

In closing I repeat that; I am here today to ask the township to consider a municipal partnership with a community organization to look at other alternatives that could have a positive effect on Muskoka Lakes.

And to ask that; the Township reconsider the need for a Bala Falls advisory committee.

And to ask that; the District of Muskoka not make any decisions regarding disposal of land at Bala Falls until after the advisory committee report is finalized and its recommendations implemented.

I **thank** the members of council for your indulgence today and I welcome any questions that you may have at this time.

Additional Information:

Premier McGuinty was quoted by the Toronto Star in February 2009 as saying "We're going to say to Ontarians that it's okay to object on the basis of safety issues and environmental standards; if you have real concerns there, put those forward and we must find a way to address those",

Environment means:

- (i) air, land or water;
 - (ii) plant and animal life, including man;
 - (iii) the social, economic and cultural conditions that influence the life of man or a community;
 - (iv) any building, structure, machine or other device or thing made by man;
 - (v) any solid, liquid, gas, odour, heat, vibration or radiation resulting directly or indirectly from the activities of man,
- or;
- (vi) any part of combination of the foregoing and the interrelationships between any two or more of them.

Source: *Ministry of the Environment Guide to EA Requirements for Electricity Projects Page 4 Glossary*

Resolution Number: C-29-08/07f08

Councillor Arney – Councillor Denyar: Be it resolved that the Council of the Township of Muskoka Lakes, concurs "in principle". that the District Municipality of Muskoka consider the use of the District owned lands, located on the south side of the Bala Falls North Dam, by Swift River Energy, as part of a new hydroelectric generating facility, all subject to further public input and successful completion of the required Environmental Screening.
Carried

COUNCIL MINUTES - January 26, 2010 - PAGE # 3

Mr. Mole attended the meeting to request that Township Council consider creating an advisory committee with members from the community and Council to address outstanding questions pertaining to the Bala Falls Hydro Project. Council discussed the project and the current stage it is at. Mayor Ellis indicated that the Township was awaiting a response to questions posed regarding the Environmental Screening. She thanked Mr. Mole for his presentation. There was no Council support for the formation of an Advisory Committee in this regard.

Screen#1

Premier McGuinty was quoted by the Toronto Star in February 2009 as saying "We're going to say to Ontarians that it's okay to object on the basis of safety issues and environmental standards; if you have real concerns there, put those forward and we must find a way to address those",

Environment means:

- (i) air, land or water;
 - (ii) plant and animal life, including man;
 - (iii) the social, economic and cultural conditions that influence the life of man or a community;
 - (iv) any building, structure, machine or other device or thing made by man;
 - (v) any solid, liquid, gas, odour, heat, vibration or radiation resulting directly or indirectly from the activities of man,
- or;
- (vi) any part of combination of the foregoing and the interrelationships between any two or more of them.

Source: *Ministry of the Environment Guide to EA Requirements for Electricity Projects Page 4 Glossary*

Jeff Mole Delegation
Special Council - August 11, 2010

When the Green Energy Act was being introduced, Premier McGuinty was quoted in the Toronto Star as saying "We're going to say to Ontarians that it's okay to object on the basis of safety issues and environmental standards; if you have real concerns there, put those forward and we must find a way to address those".

Opposition to the Bala Falls proposal is not NIMBYism. This is a term used to describe groundless opposition by members of the public to new development proposals close to them. The public concerns with the current Bala Hydro proposal have merit and should be grounds for refusal of this ill-conceived proposal.

The Environmental Screening Process and the Green Energy Act are designed to curb NIMBYism. At the same time, the approvals process is designed to protect public values and consider measures that minimize or mitigate the negative impacts. The key to a successful outcome for Bala is to try to find a solution with significant positive effects and lasting benefits for future generations in Muskoka. Otherwise we should do nothing.

Members of the public have expressed concerns with safety issues and negative "environmental" impacts. These real concerns have been brought forward and so far the province has not found "a way to address those concerns." NEXT SCREEN

Council should be concerned with the flawed "applicant of record" selection process. There is nothing in the Green Energy Act or other legislation that requires the township or the district to abide by this provincial selection process or that would force Muskoka to dispose of public land to this applicant. By the way, this selection process is currently under review by the province and significant changes may be made shortly. Accordingly, I hope the district councilors will not to allow disposal of public lands at Bala Falls until the provincial site release policy review is completed. I also hope that members of the public will take the time to search online for the Environmental Bill of Rights and submit comments in Phase 2 of this policy review.

The township and the district could protect Muskoka's interests by refusing to allow the use of this public land. The current option does not adequately mitigate the damage caused to Bala Falls and therefore is not the "preferred option". The applicant has selected an inappropriate site therefore; NO hydro facility *IS* the "preferred option".

Some hydro projects are met with open arms by communities when communities are given the opportunity to be involved in the process and enjoy the benefits. Provincial policies and programs encourage a community approach to hydro projects. A community based solution could have significant positive effects and may be the best strategy for protecting

the value of Bala Falls and therefore should be part of a broader review supported by council.

I hope that council will consider if a south channel concept is a viable and less destructive option. This option would use a small portion of the Precambrian shield parking lot adjacent to the south channel and may be done with minimal impact on public and scenic values. This option should be fully explored as it could demonstrate that the current proposal is not the "preferred option" contemplated by district council on October 14, 2008. We cannot rely solely on the word of the proponent without supporting data.

There is a non-profit organization, that is positioned to undertake the task of studying the south channel concept. Accordingly, I am here today to ask the township to consider a municipal partnership with this organization to determine if there is an alternative that is positive for Muskoka Lakes. NEXT SCREEN

What happened to receiving "further public input" as outlined in Resolution Number: C-29-08/07/08? Does the proponent driven screening process really provide adequate protection of the values and interests of Muskoka Lakes and its residents?! respectfully submit that it does not. Therefore, my second ask is that council and staff reconsider the need for a Bala Falls advisory committee. Advisory committees have been used in the past to receive public input on important matters. They are used as a way to report on the views and concerns expressed by members of the public and to consider ways to protect the interests and values of Muskoka Lakes.

Finally, I would ask the township to request that the District of Muskoka not make any decisions regarding disposal of land at Bala Falls until after a township lead public input process is completed.

In closing I repeat that; I am here today to ask the township to consider a municipal partnership with a community organization to look at other alternatives that could have a positive effect on Muskoka Lakes.

And to ask that; the Township reconsider the need for a Bala Falls advisory committee.

And to ask that; the District of Muskoka not make any decisions regarding disposal of land at Bala Falls until after the advisory committee report is finalized and its recommendations implemented.

I thank the members of council for your indulgence today and I welcome any questions that you may have at this time.

4. Delegations and Petitions

- a. Jeff Mole attended at 9:30 a.m. Re: North Bala Falls Small Hydro Project. A copy of the presentation is attached.

Mr. Mole spoke to the Green Energy Act, the hydro project application and the environmental screening process. The main goal is to find a solution for Baja with positive effects. There are public concerns with safety issues and negative impacts on the environment.

He requested the Township; to consider a municipal partnership with a Community Organization to study a south channel option, to consider the need for a Bala Falls Advisory Committee. and to ask the District of Muskoka not to dispose of the land at the Bala Falls until after the suggested advisory committee completes its report.

5. Items of Business

- a. Report from the CAO Re: Huckleberry Rock Trail. A copy of the report is attached.

The CAO reviewed the report and noted the trail improvements proposed by Mr. Lloyd Ross which include culverts, trail entrance, pavilion, interpretive plaque dedicated in memory of Paul Alan Dickie and numerous benches along the trail.

Council thanked Mr. Ross for his generous contribution. In response to Council the CAO advised he would review the impact this may have on the snowmobile trail. A suggestion for washroom facilities was noted and the CAO confirmed he will notify Mr. Ross of this item for a possible future project.

Resolution Number SC-4-11/08/10

Councillor Grady - Councillor Thompson: Be it resolved that Council approve the Huckleberry Rock Trail Improvement Works proposed by Mr. Lloyd Ross and thank him for his generosity in contributing to the community of Milford Bay and the Township of Muskoka Lakes.

Carried.

- b. Report from the CAO Re: North Bala Falls Small Hydro Project. A copy of the report is attached.

The CAO reviewed the report including the Township's legal opinion, wherein the Township does not have the authority to stop or control the North Bala Small Hydro Project Environmental Screening Report or Project. This authority lies solely with the Province of Ontario. The recommended approach is to participate actively in the consultative process and to focus on mitigative factors and alternatives that will attain the best solution with respect to the proposal.

The CAO provided analysis of SREL's responses to the Township's questions. Council made the following amendments and additions to the report:

- Question 1.a.: SREL response is acceptable and has been confirmed with the MNR. "However, we reference comments in item 1.d. and 6.j. which raise high lake level concerns which need to be addressed."
- Question 1.b.: Council has concerns with regard to recent global warming events that may cause increased January thaws. A cofferdam restriction of the North Channel may result in upstream and downstream flooding and property damage.
- Question 1.d.: Council is requesting that the province ensure that the proponent or the proponent's contractor include appropriate insurance coverage in the case that the cofferdam restriction in the North Channel results in property damage due to flooding.
- Question 2.a.: Council has requested staff to contact the Ministry of Tourism to comment on the potential impact that the flow reduction will have on the economy and tourism in Bara.
- Question 3.a.: The Chief Administrative Officer to make further contact with MRWMP to seek their participation.
- Question 5.b.: Council requests that a list of mitigation measures be developed for community events during the construction period also be incorporated into the Economic Impact Study.
- Question 5.e.: Council requests that SREL and the District Municipality of Muskoka investigate the installation of a traffic light at the south intersection of Bara Falls Road and District Road 169 which is currently a no left turn intersection.
- Question 6.b.: Reference concerns identified in Item 1.d. and 6.j.

- Question 6.j.: Increasing the width of the intake channel could decrease approach velocities. How wide the intake channel would have to be, and what effect a widened intake channel would have on encroachment into the North Channel and other project components should be "confirmed by SREL and information be provided to the Township of Muskoka Lakes, The Ministry of Natural Resources, The Ministry of the Environment and Transport Canada".

New Question: Operational Method:

SREL should provide information to the Township indicating how public safety will be protected when the plant is made operational (off/on) or flow levels through the plant are changed.

New Question: Water and Sewer

SREL is advised that water and sewer main infrastructure pipes are located within the core construction area, potential downstream of the Canadian Pacific Railway bridge. SREL is asked to contact The District Municipality of Muskoka Public Works Department to establish if there is any infrastructure conflict with the proposed project construction.

Council requested a copy of the report be sent to the District Municipality of Muskoka for review.

Council requested a Public Information Session take place on September 18th, 2010 at 10:00am at the Bala Community Centre. The Township, Swift River Energy Limited, Ministry of Natural Resources, Ministry of Environment, Ministry of Tourism and the District Municipality of Muskoka are requested to participate in the information session.

Resolution Number SC-5-11/08/10

Councillor Davidson - Councillor Denyar: Be it resolved that:

1. Council accept the August 11, 2010 North Bala Small Hydro Project - Environmental Screening Review Report, as amended, prepared by the Chief Administrative Officer, and the recommendations contained therein; and
2. That the Chief Administrative Officer be directed to work with Swift River Energy Limited to obtain answers to the questions identified in the report and identified by Council and establish time frames in which these answers will be obtained; and

3. That the Chief Administrative Officer be directed to forward a copy of the Report and Council's concerns to the MOE Director of EAAB, responsible for the North Bala Small Hydro Project, requesting that the decision for the ESR Approval be deferred until answers to the municipalities concerns are addressed by SREL, most specifically those issues relating to public safety, the economic well being of the community and protection of persons and property including concerns respecting cofferdam installation and high water impacts.
4. That the Chief Administrative Officer report back to Council at its September 14th meeting with a project status update.

Carried.

6. **Closed Session**

- a. Closed Session was held following item 3. above to discuss litigation matters pursuant to Section 239(2) of the Municipal Act, 2001.

Resolution Number SC-2-11/08/10

Councillor Hare - Councillor Brent: Be it resolved that Closed Session will be held to discuss litigation matters pursuant to Section 239(2) of the Municipal Act, 2001 .

Carried.

Resolution Number SC-3-11/08/10

Councillor Brent - Councillor Hare: Be it resolved that Closed Session reconvene as Special Council to report on matters discussed under Closed Session.

Carried.

There was no report to Council resulting from Closed Session.

7. **Confirming By-law**

- a. Consideration of a by-law to confirm the proceedings of Special Council.



SPECIAL COUNCIL MEETING

DATE: 11 Aug 2010 RESOLUTION NUMBER: SC- **5** -11/08/10

MOVED BY: *Annie Davidson*

SECONDED BY: *Chapman*

BE IT RESOLVED THAT

1. Council accept the August 11, 2010 North Bala Small Hydro Project- Environmental Screening Review Report, as amended, prepared by the Chief Administrative Officer, and the recommendations contained therein; and
2. That the Chief Administrative Officer be directed to work with Swift River Energy Limited to obtain answers to the questions identified in the report and establish time frames in which these answers will be obtained; and *and identified by council*
3. That the Chief Administrative Officer be directed to forward a copy of the Report and Councils **concerns** to the MOE Director of EAAB, responsible for the North Bala Small Hydro Project, requesting that the decision for the ESR Approval be deferred until answers to the municipalities concerns are addressed by SREL, most specifically those issues relating to public safety, the economic well being of the community and protection of persons and property including concerns respecting cofferdam installation and high water impacts.
4. That the Chief Administrative Officer report back to Council at its September 15th meeting with a project status update.

RECORDED VOTE: NAYS YEAS

- COUNCILLOR ARNEY
- COUNCILLOR BRENT
- COUNCILLOR DAVIDSON
- COUNCILLOR DENYAR
- COUNCILLOR GRADY, Deputy Mayor
- COUNCILLOR HARE
- COUNCILLOR MARGESSON
- COUNCILLOR THOMPSON, Acting Deputy Mayor
- COUNCILLOR WALLACE
- MAYOR ELLIS

MOTION DEFEATED

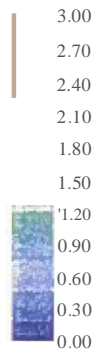
MOTION CARRIED

Karen Ellis

MAYOR

TOTALS

Velocity



Velocity
1.0 m/s

$Q_{in} = 82.00 \text{ m}^3/\text{s}$

$Q_{out} = 82.02 \text{ m}^3/\text{s}$

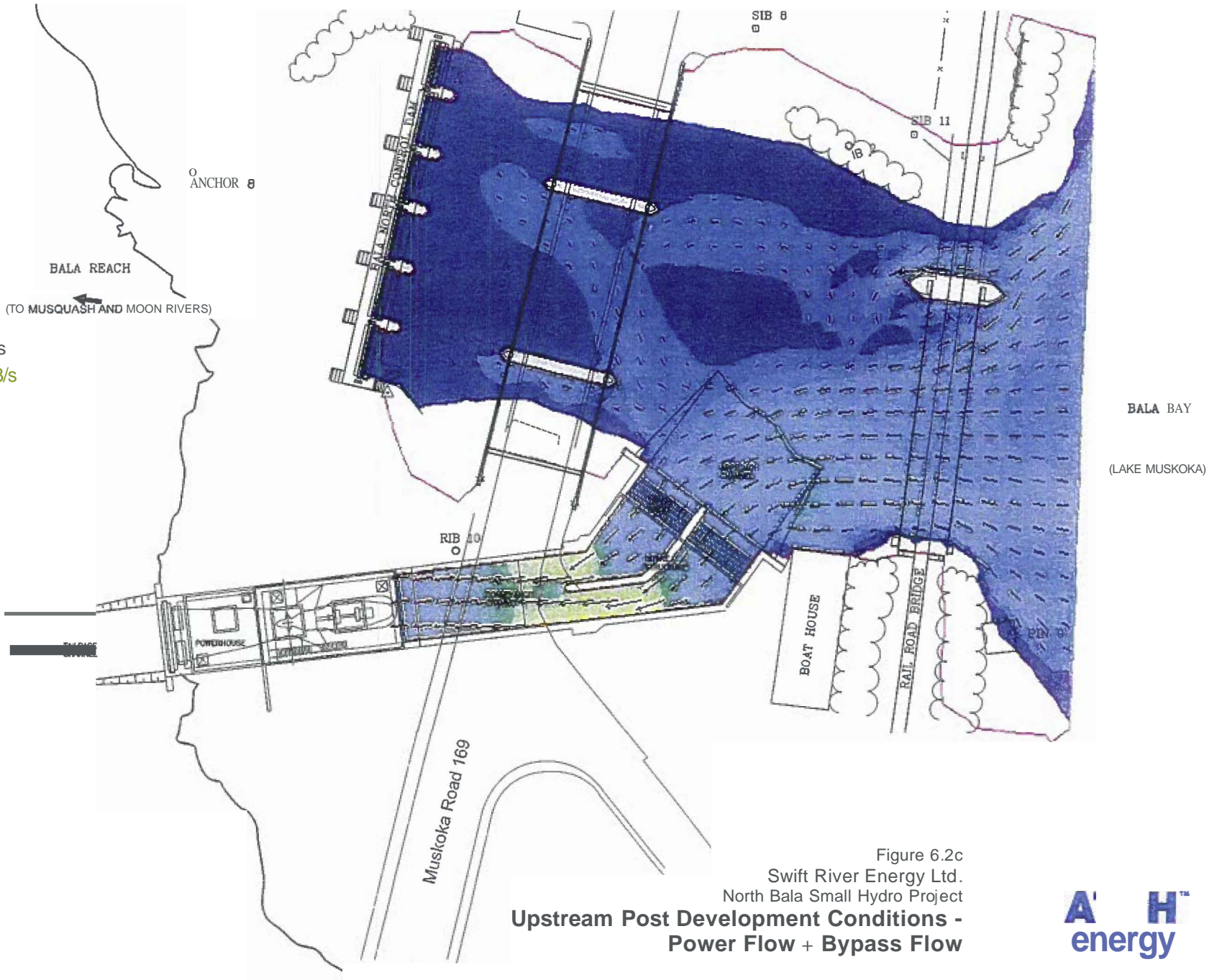


Figure 6.2c
Swift River Energy Ltd.
North Bala Small Hydro Project
**Upstream Post Development Conditions -
Power Flow + Bypass Flow**



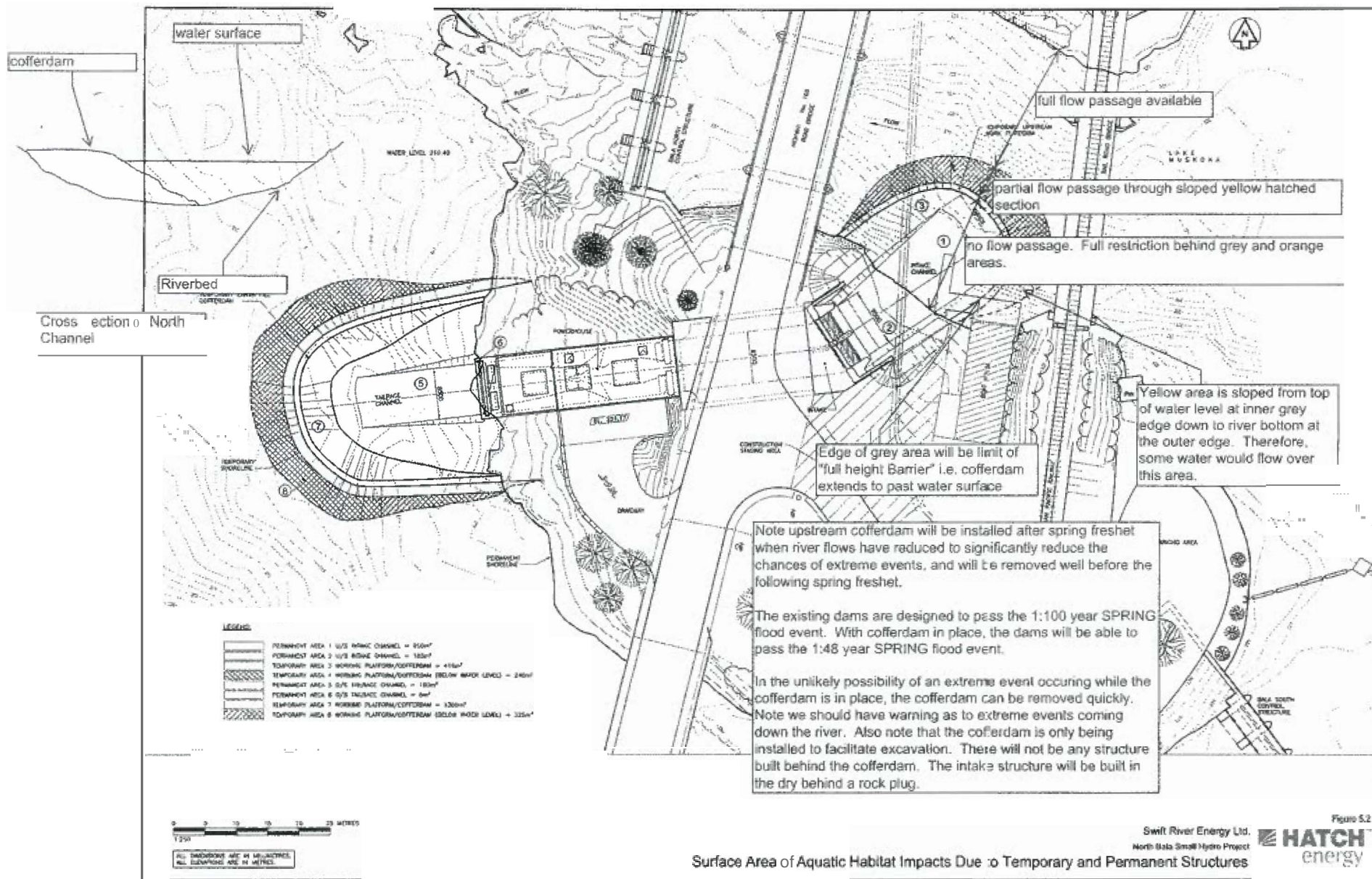


Figure 5.2
Swift River Energy Ltd.
North Mata Small Hydro Project
HATCH
energy
Surface Area of Aquatic Habitat Impacts Due to Temporary and Permanent Structures



SPECIAL COUNCIL MEETING
AGENDA REPORT

TO: Mayor Ellis and Members of Council
MEETING DATE: August 11th, 2010
SUBJECT: NORTH BALA SMALL HYDRO PROJECT - ENVIRONMENTAL SCREENING /
REVIEW (Report as amended y Council"1 on August 11,2010)

RESOLUTION NUMBER: SC-5 -11/08/10

MOVED BY: Dianne Davidson

SECONDED BY: Elizabeth Denyar

BE IT RESOLVED THAT

1. That Council accept the August ii, 2010 North Bala Small Hydro Project-Environmental Screening Review Report, as amended, prepared by the Chief Administrative Officer, and the recommendations contained therein; and
2. That the Chief Administrative Officer be directed to work with Swift River Energy Limited to obtain answers to the questions identified in the report and identified by Council and establish time frames In which these answers will be obtained: and
3. That the Chief Administrative Officer be directed to foIWard a copy of the Report and Councils concerns to the MOE Director of EAAB, responsible for the North Bala Small Hydro Project, requesting that the decision for the ESR Approval be deferred until answers to the municipalities concerns are addressed by SREI, most specifically those issues relating to public safety, the economic well being of the community and protection of persons and property including concerns respecting cofferdam installation and high water impacts.
4. That the Chief Administrative Officer report back to Council at its September 14th meeting with a project status update.

CARRIED

APPROVALS:	Date	Signature
Submitted By: Walt Schmid, CAO	<u>08/11/2010</u>	<u>Original signed by W. Schmid</u>

ORIGIN: Government of Ontario, Swift River Energy Limited

BACKGROUND:

The Government of Ontario has released a number of potential hydro electric power generation sites for development throughout the province. The North Bala Dam project was offered for competitive release under the MNR Waterpower Site Release Policy. Swift River Energy Limited Partnership (SREL) was named as the Applicant of Record, giving SREL the leave to undertake an environmental screening report of the proposed project and to seek the requisite permits and approvals.

Over the last number of years the Council of the Corporation of the Township of Muskoka Lakes has passed the following resolutions relative to the proposed North Ball Dam project:

- 1) On January 5, 2005 Resolution PC-7-5/01/05 was carried stating;

"the Township of Muskoka Lakes advise the MNR that any potential development at the Bala North Dam operated in accordance with the operating ranges of Lake Muskoka and Bala Reach as specified in the MRWMP;

and further that any potential facility also consider the need for scenic flows, public access for traditional uses and continuity of business in local area;

and further that a member of the Public Advisory Committee for the MRWMP be included on the review team for the proposed development."

- 2) On July 8, 2008 Resolution C-29 08/07/08 was carried stating:

"BE IT RESOLVED THAT the Council of the Township of Muskoka Lakes, concurs "in principal" that the District Municipality of Muskoka consider the use of the District owned lands, located on the south side of the Bala Falls North Dam. by Swift River Energy, as part of a new hydroelectric generating facility, all Subject to further public input and successful completion of the required Environmental Screening".

- 3) On October 21, 2008 Resolution C-14-21/10/08 was carried stating:

"the council of the Township of Muskoka Lakes recommends to the Ministry of Natural Resources, and Swift River Energy that the environmental screening for the hydro project at the North Bala Falls include:

the heritage value of the North Bala Falls and any related heritage impact the hydro generation station may have on the falls. And that

- ii the environmental screening process takes into consideration the potential impact that the proposed construction may have on Bala's economy, including its important winter economy by addressing safe snowmobile movement around the construction site, by investigating alternative water crossings of Bala Bay."

- 4) On November 24, 2009, Resolution C-23-24/11/09 was carried stating:

Be it Resolved that the Report, "North Bala Small Hydro Project- Environmental Screening Review" be forwarded to Hatch Energy for response to the various questions outlined in the analysis section of the report, all in keeping with the Environmental Screening Process established by the Ministry of the Environment, and;

That the Township of Muskoka Lakes requests that the Environmental Screening Process Review Period be extended for an additional 90 days in order to address the municipalities concerns, and;

That Township staff report its findings back to Council at some future date.

SREL hired Hatch Energy to complete an Environmental Screening Report (ESR) which was completed in October 2009. The proposed project is subject to the Ontario Environmental Screening Process for Electricity Projects as well as the Canadian Environmental Assessment Act.

Public comment for the development of a 4.3 MW run of the river hydroelectric facility at the North Bala Dam were accepted until November 27th, 2009. The release of the October 2009 ESR provided council with its first opportunity to analyze the proposed project with all facets presented together in one document and provided new information not yet presented.

The Township of Muskoka Lakes submitted an elevation request to Hatch Energy and the MOE Director of the EAAB in order to have municipal concerns addressed prior to any approval of the project.

A meeting was held with Swift River Energy Limited (SREL) representatives on January 22nd, 2010. The Township received a response to its "elevation request" on March 18th, 2010. A number of Township concerns were addressed in this correspondence however a number of outstanding issues continued to require answers. Accordingly numerous additional phone conversations have been held with SREL, as well as discussions with the Department of Fisheries and Oceans, Transport Canada, the Ministry of Natural Resources, the Township's solicitor, the Muskoka Lakes Chamber of Commerce and members of the community, in an effort to understand and address community concerns.

ANALYSIS:

Legal Opinion:

Many members of the public have asked *"Why doesn't the Township simply stop this project?"*

In staff's November 24, 2009 report, Council was advised that the Provincial Government's introduction of the Green Energy Act, and Green Economy Act would likely render certain municipal by-laws inoperative with respect to a municipality's ability to stop or change any designated renewable energy projects. It was likely that this would apply to the North Bala Dam Project.

To confirm the municipality's understanding of the new legislation, staff have obtained a formal legal opinion from its municipal solicitor, Burgar Rowe Professional Corporation. Burgar Rowe was asked to give an opinion whether the Township had the ability to control or stop the hydro project proposed at the North Bala Dam by SREL. A copy of the legal opinion is attached for Council's information, Appendix "A". In short the solicitor advises that:

1. "The net result of this (Green Energy Act Regulations) is to remove from the municipal level of government decision making into renewable energy projects. While proponents are required to engage in consultation with municipalities during the approval process, local authority to control or stop such projects has largely been removed and placed at the provincial level with limited rights of appeal to the ERT..... Under the Act, a "person resident" can appeal a renewable energy project only on grounds that it will cause "serious

harm to human health" or "serious and irreversible harm to plant life, animal life or the natural environment". The harm must not only be serious, and in the case of plants, animals and the natural environment, irreversible, but the burden of proof rests with the appellant to prove that it will occur as a result of the proposed development"

2. *"In view of the overall intent of the legislation and the underlying government policy to promote and develop an economy based on sustainable renewable green energy, it is **very unlikely** that a municipality could prevent a green energy project from proceeding if it is **likely** to obtain EPA approval. The recommended approach is to participate actively in the consultative process by requesting detailed information and responses to objective questions at the earliest possible stage. It is also recommended to focus on mitigative factors and alternatives and alternatives that will attain the best solution local municipal interests with respect to a particular green energy proposal. "*

In short the Township of Muskoka Lakes does not have the authority to stop, or control the North Bala Small Hydro Project Environmental Screening Report (ESR) or project. This authority lies solely with the Province of Ontario.

Analysis of SREL Response to the Townships Elevation Request.

A meeting was held with SREL on January 22nd to clarify the Townships concerns. A written response to the Township's concerns was received March 19th 2010. Numerous phone conversations have since been held with SREL, in order to gain clarification to their response. Similar discussions have been held with Transport Canada, the Department of Fisheries and Oceans, the Ministry of Natural Resources, the Ministry of the Environment, the Ministry of Culture and others in an attempt to clarify various positions.

Even though the municipality may not have had "jurisdictional rights" in various areas of concern or may have had its jurisdictional rights removed as a result of the new Green Energy Act, all agencies were cooperative and open in their responses.

The following analysis provides a copy of the Township's questions of November 24, 2009, the SREL March 18th response to these questions (in italic), and staff comments to SREL response. The analysis is presented in the order provided by SREL.

Staff comments may include updated information provided by SREL or comments from various government ministries, as may be applicable. In some cases SREL has satisfactorily answered the Townships inquiries, in other cases only partially so, hence requiring further information or a position by SREL. A complete copy of the SREL correspondence is attached as Appendix "B".

Question 1a: Will the Bala North Dam be operated within the Lake Muskoka / Bala Reach Operating Ranges as set out in the MRWMP? The municipality seeks further clarification both from MNR and SREL as to the impact on Lake Muskoka water levels during high flows or the spring freshet, resulting from the establishment of the temporary cofferdam/working platform proposed to be constructed in the North Channel upstream of the powerhouse intake. Will the temporary cofferdam/working **platform** result in temporary higher water levels in Lake Muskoka? If so, to what extent?

SREL Response: MNR will continue operations of the two dams to maintain the water levels on Lake Muskoka and the Bala Reach during the construction period as they do currently. Both the North and South Bala dams will remain operational during the construction period. The proposed upstream cofferdam will be located upstream of the road bridge leaving all of the North Dam spill bays available for passing flow. The South Dam will continue to have priority in terms of releasing flows from the

Lake. Additional spill capacity is available at the North Dam once the maximum spill capacity at the South Dam is achieved.

The construction of a temporary cofferdam will have little or no effect on water levels during high flows or the spring freshet. Any raising of the water level caused by the cofferdam can be easily compensated for by the removal of stop logs. Note that the upstream cofferdam will cover a relatively small area, as the actual intake structure will be constructed in the dry behind a rock plug. The cofferdam will only be required for some localized deepening of the intake channel. In order to limit any possible complications with spill operations, the construction schedule is planned to employ the upstream cofferdam outside of the spring freshet months of April and May.

Comment: SREL have advised that the coffer dam is not to be in place during the high flow spring freshet. MNR confirms that they will be monitoring the lake levels during the proposed construction, including the timeframe when the cofferdam is proposed to be in place in the North Channel. MNR will be responsible for the operation of both the North and South Bala Dams during the entire construction period. The onus of water level control will remain with the government agency which has historically been responsible for dam operations.

SREL response is acceptable and has been confirmed with the MNR. [However, we reference comments in item 1.d. and 6.j. which raise high lake level concerns which need to be addressed.](#)

Question 1b: Does the south dam have the capability to convey all the upstream flow? If not, to what extent does the south dam have the ability to relieve higher water levels on Lake Muskoka?

SREL Response: *The combined capacity of the north and south dams corresponds to the 1: 100 year spring flood of 470 m³/s at a lake water level of 226.4 m. The south dam has the capacity to pass 252 m³/s and the north dam 218 m³/s. With the cofferdam in place, creating a restriction in the north channel, the reduced combined flood capacity of the north and south dams would be approximately 430 m³/s at a lake water level of 226.4 m (as estimated by our consultant Hatch). This reduced capacity corresponds approximately to the 1:48 year return period spring flood flows.*

It should be noted that based on historical records, the majority of the high spill requirements occur during the spring freshet period in April/May. In order to limit complications with spill operations, the construction schedule, as stated in Section 5.2.8.2 of our ESR is planned such that the upstream temporary cofferdam will be installed in the initial year of construction following the spring freshet (July) with the intention of removing it prior to the freshet the following year (February), thereby avoiding this period of high flow.

As is typical for these types of installation, the cofferdam will be constructed to withstand the 1 in 20 year spring flood event. The 1 in 20 year flood for this location is 362 m³/s which is less than the temporary combined capacity of the two dams.

Comment: Based on review of Figure 2.4, the average weekly historical flow (1982 to 1999) for the north and south dams during the high flow spring freshet have been recorded as 148cms and 108cms respectively for a total average weekly peak spring freshet flow of 256cms. The south dam if opened completely should convey 252cms, 4 cms less than the full capacity needed to convey the historical average weekly flow during the spring freshet. This leaves the entire capacity of the North Dam of 218 cms, less 4 cms, or 214cms, available for conveyance. With the cofferdam in place it is suggested by SREL that the North Channel capacity will be reduced by 40 cms or 178 cms, more than sufficient capacity to convey the average weekly historical flow. SREL advises that it will construct the cofferdam in July, after the spring freshet, when flows have been reduced, with the onset of drier summer weather. Average weekly historical flows (1982 to 1999) for July are 36 cms. The south dam

would have more than ample capacity to convey average historical weekly flows during the summer and fall.

It should be noted however that heavy and prolonged rainstorm events especially when combined with quick spring snow melts could result in higher than normal flows, which may result in capacity concerns at the North Channel when the cofferdam is in place. SREL has suggested that the south dam and reduced capacity north dam could still convey 1:48 year spring freshet flow with the cofferdam in place if the cofferdam is installed as shown on Figure 5.2.

The 1 in 48 year melt is a significant high flow event. That being said, the Township has requested that it be provided with a cross-sectional area of the North Channel showing the greatest encroachment of the cofferdam into the waterway during construction. This information has been denied by SREL. The Township requests that this information be provided to confirm the capacity reduction of the channel as a result of the cofferdam construction and to ensure that all agencies understand the extent to which the cofferdam will encroach into the North Channel.

Council has concerns with regard to recent global warming events that may cause increased January thaws. A cofferdam restriction of the North Channel may result in upstream and downstream flooding and property damage.

Question 1c. Are there other constrictions upstream of the North Dam that has a greater effect on any backwater effects in Lake Muskoka created by the (cofferdam) working platform?

SREL Response: There are upstream constrictions that can create localized changes in water level at the dam. In addition, given the large size of Lake Muskoka also experiences wind effects that can change water levels. All of these issues are currently managed within the MRWMP and will continue to be during the construction period.

Comments: The MRWMP is monitored by the MNR and is outside of the municipality's jurisdiction and control. The MNR advise that they will be monitoring lake levels during the construction of the hydro generation facility to ensure that flooding that may cause property damage will be avoided or mitigated.

Question 1d. What measures are proposed to mitigate upstream flooding during construction should the introduction of the working platform create increased water levels on the Lake?

SREL Response: Should a flood event occur that could not be passed by the combined South Dam and reduced capacity North Dam, SREL would have the cofferdam removed to allow the flood to pass. Given that the proposed work to be done behind the cofferdam will only be excavation work to deepen the channel, removing the cofferdam can be done quickly and easily, without any damage to our new construction. Note again, that the construction schedule will be designed to have this work completed outside of the spring freshet high flow period to minimize the chance of this scenario occurring.

Comment: SREL indicates that the cofferdam will be constructed in July, after the spring freshet and removed prior to the spring freshet of the following year. SREL also indicates that should the capacity of the dams be exceeded, the cofferdam can be removed, opening up the North Channel to its full width.

Staff note that recent mid winter thaws have created high water levels and high flows in the Muskoka River. To minimize the potential of flooding upstream of the Bala dams and associated property damage, it is recommended that the coffer dam be removed from the North Channel as soon as

practically possible, creating a capacity flow in the North Channel at least as great as currently exists. This requirement should be incorporated into the construction contract for the works.

It is also recommended that a contingency plan be created by SREL and approved by MNR that would clearly identify how the cofferdam would be removed in the event of any high water event. This contingency plan should identify what equipment is required to remove the cofferdam, where the equipment can be acquired, the flow rate or water level the equipment should be brought on site in preparation for a cofferdam removal, and at what water level or flow rate the cofferdam be removed in order to protect upstream properties.

The Township has concerns that should the cofferdam be removed too late in the process, cofferdam rock debris could be washed downstream by high velocity flows, potentially damaging the existing north dam structure. We leave this consideration to the MNR operating authority to address.

Council is requesting that the province ensure that the proponent or the proponent's contractor include appropriate insurance coverage in the case that the cofferdam restriction in the North Channel results in property damage due to flooding,

Question 2: That any potential generating facility consider the need for scenic flows, public access for traditional uses and continuity of business in the local areas.

Question 2a. It is recommended that both dams be modelled in order to visually observe the proposed controlled water flows. Based on this observation, a better determination can be made to establish an acceptable aesthetic flow over the dams.

SREL Response: SREL and its consultant Hatch, with the assistance of MNR, completed a Qualitative Flow Assessment for the project in June 2009. An abridged version of this report is provided attached for your review. It includes photos from various locations around both dams at a flow of 2 m³/s. Unfortunately we were not able to reduce the flow to 1 ems at that time due to some worn or warped logs. In order to reduce to 1 ems, we will likely require replacement of stoplogs. A video was also taken at south dam at a flow of approximately 2.5 ems. Unfortunately, MNR had already started removing some of the logs before we were able to film the flow at 2.0 ems. This 28 second video is available to Council on request.

Comment: Section 6.2.2.1. of the Environmental Screening Report proposes that should the project be approved, the flow rates at the north and south dams would be reduced to a combined total flow rate of 2 ems. This flow rate is less than the flow rate currently experienced at either dam when only leakage occurs and no water tops over the dam.

SREL hired Hatch Engineering to undertake a Quantitative Flow Assessment at the North and South Dams on June 11, 2009, (Appendix "C"). Flows were reduced to an estimated 2.0 cms per dam and included stop log leakage only. This would mean a total 4 cms was being passed down stream through stop log leakage, twice the proposed volume as recommended in the ESR. SREL has provided a copy of photographs illustrating the 2.0 cms flow downstream of each of the dam structures. Hatch advised that the flow could be reduced to the proposed 1 cms per dam if warped stop logs were replaced.

Staff suggests that the proposed 1 ems per dam is totally unacceptable and will dramatically affect the aesthetics of the falls. Although 2.0 cms may be the typical existing stop log leakage rate at the North Dam, 1.0 ems would be a dramatic reduction in the historical flow and attraction of the falls.

Review of the June 11th photographs of the South Falls at a leakage rate of 2.0 ems indicates a flow that would by no means attract the attention of tourists and residents that visit the site each year.

Reduction of the flow down to the proposed 1.0 ems, would create a nonexistent rocky feature and would have a dramatic negative effect on Bala's tourism draw and economy.

These reduced flow concerns have been raised with SREL on numerous occasions. SREL has indicated that the final decision on aesthetic flows over both the North and South Falls will ultimately be decided by the MNR and or the MOE. Staff recommends that the aesthetic flow volumes be included in the economic impact study as a negative impact of the project on the Town of Bala, and that mitigating measures, including appropriate flow volumes be established as part of the study that should include higher flow rates than currently proposed by SREL. Assistance of the MNR and MOE are requested in this matter. These recommendations should be included as a condition, should the project be approved by the province.

Council has requested staff to contact the Ministry of Tourism to comment on the potential impact that the flow reduction will have on the economy and tourism of Bala

Question 2b: A joint review committee of MNR, SREL, and township representatives, perhaps a member of the MRWMP Public Advisory Committee are recommended.

SREL Response: SREL would welcome meeting with the MNR, Township representatives, and MRWMP Standing Advisory Committee (SAC) (note the PAC is no longer in effect) (as deemed appropriate) to discuss this report and its findings at the Township's convenience. It is our understanding that the Township has already been in contact with the MRWMP SAC. SREL has discussed this possibility of this committee with MNR, who has agreed to be an observer of the "joint review committee" that you suggest and could provide any regulatory input as requested. They would not, however, be a member of the actual review committee.

Note that it is our understanding that the final minimum flows to be provided over the North and South Falls will be determined by the province (MOE and/or MNR).

Comments: See comments to item 2 a.

Question 3: That a member of the MRWMP Public Advisory Committee be included on the review team for the proposed development.

Question 3a: Input from this important committee would be beneficial to the final analysis of the ESR. Additional time to seek MRWMP input is required.

SREL Response: SREL has provided contact information for the MRWMP Standing Advisory Committee (SAC) Chair.

It should be noted by the Township that SREL met with the MRWMP SAC on November 4, 2009 (during the 44 day public review/comment period for the ESR) at MNR's Bracebridge offices to announce the release of the ESR document and outline the highlights of the document with focus on the proposed addendum to the MRWMP. A question and answer period followed the brief presentation

The Water Management Planning Section of the ESR is intended to be a stand-alone document. Upon the official order for amendment, this stand alone document will be reviewed by the SAC and a determination made by MNR in consultation with the committee. The WMP order follows the EA process.

Comments: Staff has spoken to the MRWMP representative, who has indicated that they prefer to stay within the bounds of their own mandate.

The Chief Administrative Officer to make further contact with MRWMP to seek their participation.

Question 4a. That the ESR addresses the heritage value of the North Bala Falls and any related heritage impact the hydro generating station may have on the falls. Ministry of Culture must sign a letter of clearance of the archaeological condition prior to any construction operations, earth moving or blasting takes place.

SREL Response: SREL received a letter from the Ministry of Culture dated March 6, 2009, accepting the Stage 2 Archaeological Report for the Project that recommends complete clearance of the archaeological condition of the subject property.

Comment: The ultimate decision on the archaeological component of this project lies with the Ministry of Culture and is outside the jurisdiction and expertise of the Township. The Ministry has accepted the Stage 2 archaeological field assessment report prepared by Advance Archaeology on behalf of SREL

Question 4b. It is noted that the Historica document should be revised to clarify that ownership of the old Baja #1 Generating Station (Mill Street) resides with the Township of Muskoka Lakes.

SREL Response: SREL acknowledges that while the Township of Muskoka Lakes owns the "building and property" that the Ba/a #1 Generating Station (Burgess GS), the actual "business" is owned and operated by Algonquin Power or its sUbsidiary, as are the rights to the water rights for the facility.

Comment: Change to text acknowledged.

Question 4c. Council has received recent correspondence from the Muskoka Branch of the Architectural Conservancy of Ontario expressing concern that the project will negatively impact cultural qualities of the area. Additional time is required for further dialogue between all parties to fully understand their concerns.

SREL Response: It is assumed that the Township has had sufficient time to dialogue with the Architectural Conservancy between the issuance of the elevation request and the writing of this response. No update has been received by SREL regarding this matter. SREL has, however, since contacted the President of the group (February 13, 2010) and offered to meet with its representatives. At the time of writing, however, the group has not been able to provide a date at which they are available to meet. It should be noted by the Township that this group is not a government regulatory body, but instead a possibly affected stakeholder and special interest group.

Comment: The ultimate decision on the archaeological component of this project lies with the Ministry of Culture and is outside the jurisdiction and expertise of the Township. The Ministry has accepted the Stage 2 archaeological field assessment report prepared by Advance Archaeology on behalf of SREL

Question 4d: Official Plan: It should be noted that sections of the Planning Act speak to Green Energy Development. Further discussions with SREL and Hatch Energy are required to fully understand the proposed concepts and proposed mitigating measures.

SREL Response: As quoted on the Ministry of Municipal Affairs and Housing website "As a result of the new approvals framework established through the Green Energy Act (GEA) and related regulations, most renewable energy developments ... with some exceptions, are exempt from the provisions of the Planning Act." This exemption includes projects and facilities which generate electricity from renewable sources such as water (as is the case for the North Bala Falls Project). The effect of this exemption is that renewable energy projects are not affected by the following local planning instruments:

- Official plans
- Demolition control by-laws
- By-laws or orders passed under Part V of the Planning Act, including zoning, site plan, holding and interim control by-laws
- Development permit system by-laws

Also, the GEA has amended the Planning Act to allow leases up to 40 years for renewable energy projects without obtaining an approval under the Act.

Policy 1.8.3 of the Provincial Policy Statement, 2005 directs that renewable energy systems shall be permitted across Ontario – in settlement areas, rural areas and prime agricultural areas – in accordance with provincial and federal requirements.

As stated in the ESR, SREL is proposing to mitigate impacts by:

- Ensuring access is maintained to both sides of the north and south falls
- Professionally landscaping the area to create a public park and river/sunset view lookout
- Providing an upper lookout area adjacent to the road, that is handicap accessible
- Incorporating interpretive signage into the site to describe the heritage of the area and its history with waterpower.
- Assisting the Township with the constructing/installation of a year round snowmobile/pedestrian bridge between the Bala wharf and Diver's Point. The details of this are, however, still to be discussed.

Comments: Staff has obtained a legal opinion from the Township's solicitor confirming the statements relating the GEA put forward by SREL, see Appendix "A".

Question 5a: That the ESR take into consideration the potential impact that the proposed construction may have on the Bala economy, including the winter economy, by addressing safe snowmobiling movement around the site, by investigating alternative water crossings of Bala Bay.

It is recommended that an Economic Impact Study be conducted by SREL to illustrate to what sectors of the local economy may benefit and what sectors may be negatively impacted and what can be done to mitigate effects. The study should consider the creation of a local committee, comprised of SREL, the contractor and local representatives that would meet on a regular basis to identify "items of concern" prior to the issues becoming "problems". This committee should develop "proactive" business strategies in support of local businesses and retailer's i.e. roadside signage indicating "Bala Merchants are Open for Business During Construction".

SREL Response: SREL is currently considering the preparation of an Economic Impact Study, should we determine that it could provide useful information to ourselves and the community. We are currently contacting various economic consultants to discuss the terms of reference for such a study.

SREL will also look to the Township for assistance with the development of a Terms of Reference for such a report should we decide to proceed. SREL has also scheduled a meeting with the Chamber of Commerce Executive for March 25th to discuss strategies and suggestions they may have to minimize

potential negative impacts to their respective businesses during the construction period. Since this meeting was set up, the C of C has posted a notice to all members requesting input for this meeting.

A large construction project such as the one SREL are proposing, can be expected to provide some construction opportunities in the area as Contractors generally try to hire local labours. It is estimated that 4,000 to 6,000 person hours will be required for this project.

In addition, we foresee direct business opportunities for various service and retail industries in Bala and Muskoka with respect to lodging, restaurants, building supplies, fuel etc., while the contractor work force is in town for the 12-18 month period. It is estimated that an average of 15 workers will be required on site during this period. These direct opportunities generally result in "trickle down" or indirect opportunities for other business' in town that may see more business because the neighbouring businesses are profiting.

In addition, this may be an opportunity for some of the seasonal businesses, in particular for lodgings, to make the investment to winterize their facilities if they have a known revenue stream for 12-18 months. Then after the construction is over, these facilities will be ready to accept snowmobiling or other winter customers in future years. It should be noted that SREL and the Township of Muskoka Lakes are in discussions about SREL assisting the Township to install a new year round snowmobile/pedestrian bridge from Diver's point to the Public Docks that would further enhance the snowmobile industry for the area.

SREL are also in the process of investigating the options for including a "buy local where possible" policy in its agreements with the project contractors.

Comment: SREL has committed to the undertaking of an Economic Impact Study. Staff have been involved in the development of a terms of reference for this study and as recently as August 9th received a revised copy to the study outline. The Township has asked and SREI has agreed to ensure that local business input is obtained, as well as the input of the Muskoka lakes Chamber of Commerce. The Economic Impact Study is expected to be initiated in August, 2010.

Question 5b. SREI should ensure existing tourism events such as the Bala Bay Regatta, Cranberry Festival etc., are minimally affected by any construction interruption.

SREL Response: *SREL is committed to working with the community to ensure that existing tourism events are minimally affected during the construction period. By completing all road work during the off-peak season, road interruptions should be minimized. Much of this could be attained by restricting or limiting construction activities during these events which generally occur on weekends. (Regatta - Civic holiday weekend, Cranberry Festival - Weekend after Thanksgiving, Craft and Gift Fair - 2 weekends: July and Oct, Antique and Nostalgia Show - 2 weekends July and October, Santa Clause Parade – weekend in November). Other events such as the summer market that occurs on Mondays, will have to be investigated with the Contractor and market organizer.*

Comment: The SREI commitment is a positive one. If the project is approved, it is recommended that this commitment and specific ideas be incorporated into the Economic Impact Study and that these recommendations become part of the project approval.

Council requests that a list of mitigation measures be developed for community events during the construction period also be incorporated into the Economic Impact Study

Question 5c. It is recommended that SREI incorporate "buy local where possible" policies in its agreements with project contractors.

SREL Response: It is SREL's intention to discuss this option with the Chamber of Commerce at the March 25th meeting discussed above.

Comment: It is staff understanding that "buy local" was discussed between SREL and the MLCC. The SREL commitment is a positive one. If the project is approved, it is recommended that this commitment and specific ideas be incorporated into the Economic Impact Study and that they become part of the project approval.

Question 5d. Snowmobiling during construction: There may be safety issues with snowmobiles crossing the proposed temporary Bailey bridge if it has a steel deck.

SREL Response: SREL's engineers have indicated that an alternative deck material is entirely possible and will be included in the construction specifications (possibly timber). Note that this Bailey bridge will only be in place for the first winter season. This will not be an issue for the second winter season.

SREL has proposed a joint venture with the Municipality for the provision of a Four Season Bridge from Divers Point Park to the Bala Wharf. Further discussions with the Township and the local snowmobile club are required to address this issue.

SREL remains committed to assisting the Township with the installation of the above mentioned bridge; should the North Bala Falls Small Hydro Project proceed, and the installation/construction of the bridge coincides with the Hydro Project's construction period. Details of such a joint venture would need to be worked out in further discussions between the Township and SREL

It should be noted that if the hydro project doesn't proceed, this bridge would have to be significantly higher and more expensive than currently planned. Alternatively, the Township would need to obtain a navigational restriction to the North Channel from Transport Canada, or it would restrict access to the existing Purk's Place Boat House and Marina (not currently zoned for marina use).

Comment: Provision of a Bailey Bridge deck of alternative deck material suitable for snowmobiles is acceptable. Confirmation of this deck material with the District of Muskoka should be confirmed.

Construction of a four season bridge, from Divers Point to the Bala Wharf, capable of use by snowmobiles in the winter time and pedestrians in other seasons, was part of a long term economic plan proposed by the Chamber of Commerce some years ago. It is staffs understanding that construction of the generating station will not proceed in 2010 if approved. Further discussion regarding the proposed four season bridge should be discussed with the new municipal council.

Question 5 e: SREL proposes to close Bala Falls Road between the CPR overpass and MR#169 during construction. Township Council approval is required for this road closure.

SREL Response: SREL will apply for approval of this road closure at the appropriate time in the construction process. Is it possible to get this approval at this point in time?

Comment: Should the project be approved, road closure approvals should be made upon the development of a formal construction plan, in coordination with the District of Muskoka.

Council requests the SREL and the District Municipality of Muskoka investigate the installation of a traffic light at the south intersection of Bala Falls Road and District Road 169 which is currently a no left turn intersection.

Question 6a: Section 5.2.1 of the ESR speaks to the possible crushing of rock on site. How will noise and dust emissions be monitored and controlled? During what time of year is the crushing proposed?

SREL Response: Subsequent to the issuance of the ESR, SREL's engineers have concluded that no on-site crushing will be required.

Comment: Agreed

Question 6b: The ESR should address the introduction of the upstream cofferdam/working platform in the North Channel and any potential backwater effect it may create. The Township requires further clarification and input from Hatch and MNR.

SREL Response: See Item 1.

Comment: Agreed. See staff comments item #1. Reference concerns identified in Item 1 d. and 6 j.

Question 6c: Muskoka Road #169 will be closed for two nights during construction as the intake channel is constructed under the roadway.

SREL Response: Road closures will be coordinated with the appropriate emergency services, so as to ensure that an option exists for emergency response during those closures. The conditions surrounding road closures will be agreed upon before permission is granted.

Comment: Agreed

Question 6d: A one lane Bailey bridge is proposed for 2 weeks prior to installation of a two lane Bailey bridge structure. Timing of the installation is requested to ensure proper coordination with other Bala events and activities.

SREL Response: Two 2-week lane reductions will be required before the installation of the two lane Bailey bridge structure to install its foundations. A second set of two 2-week lane reductions will be required upon removal of the bridge to remove the foundation work. All four weeks of lane reductions are planned to be conducted in the off-peak season (between the months of November and Victoria Day weekend). Notice of these lane reductions will be provided to the Municipality as well as the local businesses to ensure they don't coincide with any Bala events or activities. This timing will not be known until after a contractor is chosen.

Comment: Agreed

Question 6e: Impact on Bala's Economy during Operation:

Will reduced flows over the North and South Falls have a negative effect on both existing and new spawning beds? Is 200 m² of "manmade" spawning habitat sufficient to maintain the fishery?

SREL Response: Fisheries and Oceans Canada (DFO) is the federal agency responsible for fish habitat, while the MNR is the provincial agency responsible for fish community and fisheries. A Fisheries Act Authorization is issued by DFO when the impacts to fish habitat are adequately mitigated. A mitigation plan has been proposed. A Fisheries Act Authorization application will be filed with the DFO. This typically follows the submission of the ESR. The DFO and MNR have both reviewed the ESR and provided comments. These comments are being addressed by SREL and its fisheries

experts. Application for Fisheries Act Authorization will be filed thereafter. This authorization will be issued only upon satisfaction of the DFO conditions.

Comment: The ultimate decision on the fisheries impact of this project lies with the federal Department of Fisheries and Oceans (DFO) and MNR and is outside the jurisdiction and expertise of the Township. Township staff has spoken to DFO staff. As of early August 2010, they continue to review the SREL application.

It is recommended that DFO approval be obtained prior to any ESR project approval by the MOE.

Question 6f: *Reduced flow over the North and South Dams: The Township needs to fully understand the visual impact on both falls and potential economic impact. Consideration should be given by the province, providing it flexibility to increase the minimum flows over the dams is the proposed flows seriously affect the aesthetics of the falls.*

SREL Response: *Please see answer to Item 2 above. The final determination of the flows to be released over each of the dams will be determined by MNR. As stated in Item 5 a), SREL is currently considering conducting an Environmental Impact Study to investigate impacts from changes to the aesthetics of the falls and any possible mitigation measures.*

Comment: As per comment item #2, staffs observation is that the proposed 1 cms per dam is totally unacceptable and will dramatically affect the aesthetics of the falls, the tourism attraction that the falls creates and correspondingly will have a dramatic impact on the local Bala economy.

Although 2.0 cms may be the typical existing stop log leakage rate at the North Dam, sealing up to North Dam to 1.0 cms would be a dramatic reduction in the historical flow and attraction of the North Falls.

Review of the photographs of the South Falls at 2.0 cms on June 11th, 2009 indicates a flow that would in no means attract the attention of the tourists that visit the site every year. Further reduction of the leakage flow down to the proposed 1.0 cms, would create a nonexistent feature of only bare rocks dramatically effecting Bala's tourism draw.

Reducing the flows through and over the North and South Bala Dams will have an effect on tourism and should be considered in the economic impact study soon to be undertaken by SREL.

This reduced flow concern has been raised with SREL on numerous occasions. SREL has indicated that the final decision on aesthetic flows over both the North and South Falls will ultimately be decided by the MNR and or the MOE. Ministry representatives are asked to attend the falls and assist in establishing more reasonable flow volumes. There are many examples where aesthetic flows volumes have been included in project approvals, including the local expansion of High Falls in Bracebridge.

Staff recommends that the aesthetic flow volumes be included in the economic impact study as an impact of the project on the Town of Bala, and that mitigating measures be established as part of the economic impact study that should include higher flow rates than currently proposed by SREL.

Question 6g: The Township wishes to participate in the proposed park design and discussions relating to ongoing park operations as well as the development of illustrative plaques in the Bala Falls area as recommended by Historica.

SREL Response: *SREL is committed to forming a Public Advisory Group to gather input on the park design and illustrative plaques among other things. A representative from the Township would be*

welcomed to the group when it is formed during the detailed design stage of the project (following the EA process).

Staff Comments: Agreed. The commitment to create a public advisory group should be included as an ESR commitment if the project is approved.

Question 6h: Section 9.4 should be revised to indicate that Burgess Generating Facility is owned by the Township and operated by Algonquin Power.

SREL Response: SREL acknowledges that while the Township of Muskoka Lakes owns the "building and property" that the Ba/a #1 Generating Station (Burgess GS), the "business" is owned and operated by Algonquin Power or its subsidiary, as are the rights to the water rights for the facility.

Comments: Agreed. Ownership of the building and the property lay with the Township. The township at this point does not acknowledge ownership of the water rights of the Burgess #1 facility. An investigation of our records is ongoing.

Public Safety Issues

Question 6i: The ESR should confirm that the upstream and downstream booms are in fact the final locations.

SREL Response: The final location of safety booms will be determined by Transport Canada (TC). TC has reviewed the ESR and provided written comments on the project as provided attached. These comments confirm that the proposed upstream and downstream boom locations are "reasonable" as shown in the ESR. An Application for Navigational Water Protection Act Authorization will be filed after final acceptance of the ESR. This authorization will be issued only upon satisfaction of the TC.

Comments: Staff has reviewed the Transport Canada correspondence of January 22, 2010 and has spoken to the Transport Canada official involved with the SREL application, regarding the placement of the upstream and downstream safety booms in the North Channel in early August, 2010. The Transport official has verbally indicated that he is satisfied with the placement of the safety boom provided by SREL. Insofar as marine vessel safety is concerned both upstream and downstream of the generating facility.

Transport Canada expects that the upstream flow velocities in the immediate area of the Bala Wharf will not be affected insofar as vessel navigation is concerned. This includes canoes.

Transport Canada advises that the overall flow velocities downstream will actually decrease and the existing circular flow patterns will be removed making navigation of small vessels more predictable at a generator flow of 80+/- cms. For comparison sake it should be noted that a 80cms flow is one that could currently be expected in early March, the middle of April, mid November and mid December when there is little vessel traffic.

In regard to the "historic portage" which currently accesses the North Channel at Purk's Place, Transport Canada advises that alternative access points would be acceptable, including upstream at the Bala Wharf and Divers Point and downstream at the Portage Street Town Dock.

Staff remains concerned that the flow velocities in the area of the Bala Wharf will remain higher than what could safely be compensated for by someone swimming off the Bala Wharf, or someone who may have fallen off the wharf, or out of a canoe or boat.

Staff has discussed with SREL, the possibility of creating a short breakwall, built at a 90 degree angle to the Wharf into Bala Bay. This breakwall would be located at the south end of the wharf, adjacent to the North Channel. The breakwall would extend to the lake bottom, cutting off any current into the North Channel from the area in front of the Wharf, in effect creating a stilling action for these waters. If built appropriately, the north side of the breakwall could create a safe canoe access point further away from the North Channel entrance, but close to the railway underpass and access to a crossing point of Muskoka Road #169. SREL has not committed to the construction of such a breakwall.

That further discussions be held with SREL to create the potential breakwall at the south end of the Bala Wharf as a means of improving public safety, and that this requirement be included as a condition of any ESR approval.

Question 6j: The Township requires further clarification as to the expected flows in and around the Bala Wharf under various flow conditions during different times of year. A comparison of existing flow velocities is also requested (water going over the existing North Dam). The Township requires that flow velocity figures be created for the area further out into Bala Bay to understand the potential impact on recreational swimming, canoeing and boating in the area and related safety issues.

SREL Response: The attached letter from TC confirms that while velocities may exceed 0.61 m/s at the intake, the velocity near the Bala Wharf will dissipate to 0.3 m/s during spring low and at full plant operation. TC further concludes that navigation will not be affected in the Bala Wharf area.

Comment: Staff has requested further information regarding flow velocities from SREL. In-Situ flow velocities were taken the week of December 10th, 2008 but were not included in the ESR. This information has now been provided to the municipality.

Drawing No. H-327078-SK1, illustrates North Channel velocities that range between 0.3 to 0.45 m/s, roughly in the area of the most upstream safety boom, under an actual flow rate of 80 ems at the North Dam and 0.6 m/s velocities in the area of the proposed intake channel. Decreased velocities existed closer to the Bala Wharf.

Again staff expresses concern regarding public water safety. If the project is approved, it is strongly recommended that an appropriately sized breakwall be created to shelter the waters in the area of the Bala Wharf and any North Channel currents. Although Figure 6.1 indicates that flow rates through the proposed plant will be greatly reduced during the summer months, this does not preclude swimming or the potential of an individual from falling into the water during the late spring or fall seasons when generating rates are higher, nor does it preclude the possibility of a wet summer season and higher than average flow rates being passed through the plant during the peak tourist season when inexperienced boaters may be in the area.

It is staffs understanding that as a result of fisheries concerns, the maximum velocity at the intake to the generating station will be 0.6 m/s. This would result in the velocities illustrated on Figure 6.2c. It is staffs understanding that Transport Canada has based their approval on these projections.

In reviewing Figures 5.2, 6.3 and other schematics in the ESR, it is shown that the intake structure to be 9.5m wide. Assuming a lake water level of 225 m (as discussed with SREL) and an intake channel invert elevation of 219 m, (Figure 5.2), a water depth of 6.0m would be created. Assuming an intake volume of 80 ems, the velocity at the intake channel would be 1.4 m/s, not 0.6 m/s. At the maximum plant capacity of 96 ems, the intake velocity would increase to 1.68 ems. These increased velocities would have a significant impact on channel approach velocities at the outer safety booms and in the Bala Wharf area.

SREL has indicated that the actual invert elevation of the intake channel would likely be 217 m. Assuming a lake level elevation of 225 m, this invert change would create flow velocities of 1.05 *m/s* and 1.26 *m/s* at the intake structure, under generation volumes of 80 and 96 cms respectively. Again these velocities are above the 0.6 *m/s* required for the fisheries and would likely increase channel approach velocities at the safety booms.

It should also be noted that deepening the intake channel invert to 217 m would require further construction encroachment into the North Channel. If this were to be the case the temporary upstream cofferdam would likely extend further into the North Channel thereby reducing the capacity of the North Channel to convey flows during a high flow event. This may create flooding concerns upstream and potential property damage.

Increasing the width of the intake channel could decrease approach velocities. How wide the intake channel would have to be, and what effect a widened intake channel would have on encroachment into the North Channel and other project components should be [confirmed by SREL and information be provided to The Township of Muskoka Lakes, The Ministry of Natural Resources. The Ministry of the Environment and Transport Canada.](#)

Staff's estimates are simple hand calculations but reflect a public safety concern relating to intake channel flow velocities. There is significant reason to ask for further clarification on the plant intake configuration and associated approach velocities prior to any ESR approval.

Question 6k: Clarification is required regarding the ability of the public to access the north shore of the North Falls. Will currents from the tailrace prohibit swimming in the area?

SREL Response: As illustrated on the attached figure 6.5 from the ESR, there will be no restricted access to the north shore of the North Falls, downstream of the dam. TC's attached letter also states that while velocity at the outfall will increase from 0.6 to 1.3 m/s. overall velocities will be reduced from 2.4 to 1.3 m/s. It also states that velocities will quickly dissipate to negligible. Therefore, velocities will not be significantly affected on the north shore.

SREL, however, cautions the Township that swimming in this area is currently not advised. "Danger - Fast Water Keep Away- No Swimming" signs are posted on the downstream face of the North Dam. SREL cannot, therefore, suggest that it would be safe to swim in the area either with, or without, the installation of our project.

TC's letter does, however, indicate that because the flow from the tailrace will be straight out from the plant and perpendicular to the shore, it will eliminate the swirling (circular) flow which presently occurs in that area during high flows. The removal or reduction of this swirling water should allow for easier handling of small vessels in the zone around the tailrace.

Comments: The north shore and the river bottom of the North Bala Falls are owned by the Provincial Government who has the jurisdiction to restrict or prohibit swimming downstream of the generating station. The MNR has not indicated whether there will be swimming restrictions or prohibitions placed on swimming downstream of the North Falls or the generating station. MNR is requested to confirm any future swimming prohibitions expected.

Question 6l: Confirmation is required that public will have access to the south bank of the North Channel.

SREL Response: As the attached Figure 6.5 from the ESR illustrates, there will be no restricted areas along the south bank of the North Channel, downstream of the North Dam. SREL is also proposing to construct a new set of stairs down this incline to facilitate access.

Comment: Accepted. Access to the south bank between the MR #169 and the CPR Bridge will be limited by the introduction of a security fence. See comment Item 6n, to mitigate the industrial look of the security fence.

Question 6m: Section 6.3.6.1 requires clarification regarding the "portage" route between Lake Muskoka and the Moon River.

SREL Response: *Suggested alternative portage routes to replace the current upstream "take out" on the crown land adjacent to Purk's Place, include the flat area adjacent to the Bala Wharf (Bala Bay) and Diver's Point, during summer low flow conditions "Put in" locations downstream include the Town Dock in Bala Reach. TC's attached letter confirms that these locations are appropriate.*

Comment: Staff suggest that a canoe launch be incorporated into a short breakwall at the south end of the Bala Wharf.

Question 6n: Section 6.3.6.1 indicates that access to the water in the area of the works will be discontinued. Clarification is requested as to how this restriction will be done.

SREL Response: *The attached Figure 6.5 clearly outlines the restricted area during the operations phase of the project. The water side of the tailrace restricted area will be enclosed by a floating safety boom and the land side will be blocked with a combination of landscaping features (vegetation and rocks) as well as architecturally designed handrail systems that meet the Ontario Building Code to keep children from falling through or people climbing on.*

The lands/de of the restricted area around the intake will be enclosed by fencing. All attempts will be made to ensure that this fencing is either Visually appealing or masked by vegetation. The upstream end of this area will be blocked with a floating safety boom.

There are currently no plans to fence the area along the upstream north shore of the North Channel as this is Municipal land. SREL would be open to discussions with the Municipality should they wish to have SREL assist with the installation of fencing and/or landscaping to provide a physical barrier between the land and water. The water in this area is currently not easily accessible by land already because of the very dense shrubbery and rocks (see photo attached).

SREL also do not have any current plans to erect any barrier on the CP Rail land where it meets the restricted zone unless requested by CP Rail. Again, the water in this area is not easily accessible from land as the rail bridge abutments and vegetation restrict access to a large extend (see photo attached).

Comment: Staff recognizes the need for safety fencing around the intake channel. That being said the Township requests input to the appearance of the fencing in order to minimize any negative aesthetic appearance of the fencing along the North Channel.

In addition to the above, it is believed that the CPR is the owner of the property along the north shore of the North Channel. The Township may have an easement over these lands. This ownership is currently being confirmed by the Township. That being said, the Township should not be burdened by the cost of new fencing along the north side of the North Channel, should fencing be required as a result flow regimes that create a **public** safety hazard created by the hydro generating station. The proponent should be responsible for these fencing costs. These conditions should be included in any ESR approval.

Question 60 : The Township requires clarification that the trail along the north side of the upstream North Channel will not be affected by the proposed construction or operations.

SREL Response: No work is proposed to be completed on or near the north shore of the North Channel, upstream or downstream of the North Dam, with the exception of the downstream anchor for the relocated boom and the installation of the proposed year round pedestrian/snowmobile bridge should the Township wish to proceed. See above item (n) for possibilities regarding barriers to water in this area.

Comment: Agreed

Question 6p : SREL is requested to identify any restrictions or warnings that may be imposed on divers in and around the works.

SREL Response: Divers will no longer be able to dive in the area shown in yellow on the attached Figure 6.5. Generally diving is not recommended near intakes or upstream of dams. It has been suggested by members of the public that divers currently use the area off Diver's point to commence dives. While this is not recommended either with or without our project, our project should not significantly change the existing strength of the currents in this area. Divers would, however, risk the chance of swimming below the two closely spaced safety booms. This is currently the situation with the adjacent south dam. Signage will be posted to notify people of the dangers of passing into the restricted zones beyond the safety booms, similar to what is present at the south dam.

There would be a small restricted area within the tailrace boom downstream of the plant as shown on Figure 6.5. It is assumed that divers generally use the deeper areas downstream of the dams and should; therefore, they should not be significantly impacted by our project.

Comment: Should the project be approved, the recommended restricted areas shown in yellow on Figure 6.5 appear logical.

Future Employment and Economy

Question 69: The Township requests that an Economic Impact Study be undertaken by an independent consultant to identify both the positive and negative attributes of the proposed development after the construction is completed and the plant is operational. The study should identify amongst other things, the effect on the seasonal and year round economy given the proposed changes to the North and South Falls. If negative concerns are raised the report should identify possible mitigating measures that could be taken.

SREL ResDonse: As stated above, SREL are seriously considering undertaking an Economic Impact study to identify Impacts to the local economy for the construction and operational periods and outline possible mitigation measures. SREL are proposing to hire Bracebridge Generation, a branch of Lakeland Holdings out of Bracebridge, for the plant operations, maintenance and management. Bracebridge generation has indicated that they foresee hiring additional staff for this role.

Comment: SREL has committed to undertake an economic impact study of the proposed project on the local Bala economy establishing both negative and positive effects of the project as well as recommending mitigation measures that may be undertaken by SREL, local businesses, the community and Township. The study is expected to start in August 2010.

It is recommended that the findings and recommendations of the study be completed prior to ESR approval to fully understand the impact on the Bala Community. To do otherwise would certainly be putting the cart before the horse for those most directly impacted by the proposed works.

Bonding and Securities

Question 6r: The Township inquires whether the Province requires a Bond or Security for the completion of the project.

SREL Response: It is my understanding that the Provincial Government does not generally require such a thing for these types of projects. However, SREL are required to provide security to the Ontario Power Authority (OPA) under our FIT application and eventual FIT contract to ensure that we do proceed to Commercial Operation.

In addition, both the original MNR site release program and the recent OPA FIT application required verification of SREL's financial capability to complete the project.

Comment: Requirements for bonding and securities for the SREL proposal lay solely with the provincial government who have jurisdiction over the project approval.

Operational Method

SREL should provide information to the Township indicating how public safety will be protected when the plant is made operational (off/on) or flow levels through the plant are changed.

Water and Sewer

SREL is advised that water and sewer main infrastructure pipes are located within the core construction area, potentially downstream of the Canadian Pacific Railway bridge. SREL is asked to contact The District Municipality of Muskoka Public Works Department to establish if there is any infrastructure conflict with the proposed project construction.

BURGAR  ROWE

BARRISTERS • SOLICITORS • MEDIATORS • TRADEMARK AGENTS

BY EMAIL ONLY TO: wschmid@muskokaJakes.ca

May 22, 2010

The Corporation of the Township of Muskoka Lakes
1 Bailey Street
P.O. Box 129
Port Carling, Ontario
POB IJO

ATTENTION: Walt Schmid, CAO

RE: TOWNSHIP OF MUSKOKA **LAKES** AND SWIFT RIVER ENERGY LIMITED
NORTH **BALA** FALLS **HYDRO** PROJECT
OUR FILE NO. **45737**

You have requested my opinion concerning the ability of the municipality to control or stop the proposed hydro project for the north Bala falls site being put forward by Swift River Energy Limited ("**SREL**"). In preparing this opinion, I have reviewed the correspondence that you have provided to me from SREL, the **Ministry** of Environment Environmental Assessment and Approvals Branch ("**MOE**") and all related enclosures. I have also reviewed the relevant legislation in addition to background materials and commentary available regarding the *Green Energy Act, 2009* and its impact on the planning approval process and municipal powers.

Green **Energy Act, 2009**

Context:

The *Green Energy and Green Economy Act, 2009* ("GEGEA") was introduced in February of 2009 and received Royal assent on May 14, 2009. The GEGEA enacted a stand-alone *Green Energy Act, 2009* ("**GEA**") and, at the same time, amended and repealed numerous other statutes including the *Planning Act*.

The context within which the legislation was introduced included the need for the Province to move away from electrical energy generation programs considered unsustainable and environmentally **unacceptable**. The province also saw the **need**, flowing from Ontario's "hybrid" electricity market comprised of both private and public interests, to encourage and capitalize on the development of local private initiatives to develop sustainable energy supplies serving local and provincial needs in an environmentally responsible manner ("green energy"). Developing renewable energy sources and fostering a conservation oriented

Barrle Offlees
90 Mulcosler Street Box 758 Ilorrie Ontario L4M 4Y5 T 705 721 3377 F 705 721 4025
Brae. bridge Oitlcel
2501110.10 Street Brocebrldgo Ontario PtL 2A7 '705 645 5211 F 705 645 6021
www.burgarowe.com



culture were seen as cornerstones of the Province's balanced plan to provide clean, reliable and affordable energy.

During its review of Ontario's energy system and its future needs, the Province had identified concerns among proponents of new green energy projects that the approval process was difficult and proponents faced many challenges or impediments due to the multiple processes involved including local public resistance to projects considered unacceptable in local areas. In order to achieve success in changing the electrical power generation system in Ontario and move toward a sustainable and green energy future, the Province saw a need to consolidate the approval **process** under one roof while still ensuring responsible environmental and planning oversight.

Through the enactment of the GEGEA and the GEA, the Province sought to streamline the environmental approval process for renewable energy generation projects and provide a service guarantee for proponents. The GEA, by creation of the Renewable Energy Facilitation Office, would provide a one-window contact and advocate for renewable energy applicants. The MOE was designated as the Ministry responsible for co-ordination, review and approval of renewable energy generation projects through a process identified as Renewable Energy Approval ("REA"). The REA was to provide a single new approval that integrated the environmental and health and **safety** matters traditionally dealt through the following requirements:

- Existing land use planning (municipal government level)
- Environmental assessment
- Environmental approvals
- Water takings

The REA process would deal with the following:

- Wind facilities
 - Over 3kw but less than 50kw (streamlined requirements)
 - Over 50kw (including setbacks)
 - All off-shore wind projects
- Solar facilities
 - Ground mounted over 10kw
 - No approval required for rooftop or wall mounted of any size
 - Prime agricultural land restrictions (within feed in tariff contract)
- **Bio-energy** facilities
 - Defined in the *Green Energy Act* as biomass, biogas or biofuel
 - Can be anaerobic digestion or thermal treatment facilities
 - No approval required for farm-based operations addressed under the *Nutrient Management Act*



Waterpower facilities (**hydroelectric** projects) did not require a REA. Waterpower hydro projects would continue to be processed through the existing Class EA regime for which MOE/MNR approvals would still apply.

*Waterpower Facilities **(history)**:*

The Province **decided** to treat waterpower facilities differently than other proposals for green energy facilities due to the historical background and experience with approvals for hydroelectric generation projects in Ontario. Renewable energy in the form of water power has been regulated by the provincial government for over 150 years and hydro-electrical generation has been regulated for over 100 years.

While terminology and emphasis may have been different **from** time-to-time, the objectives of the regulatory schemes have remained the same: the promotion of the development of such **energy** sources, and hence Ontario's economy, while protecting the environment and those others with an interest in the resource. Most of Ontario's **current** hydroelectric structure was in place by the 1970's having been approved before the implementation of planning legislation giving local planning authorities significant autonomy and control over planning and development approvals.

Historically, the Ministry of Natural Resources ("**MNR**") had oversight for approvals relating to hydroelectric projects. Approvals for water power projects could be required under the *Lakes and Rivers Improvement Act*, the *Public Lands Act*, the *Fish and Wildlife Conservation Act*, 1997 and the *Conservation Authorities Act*. In addition, a variety of other provincial and federal statutes including the *Environmental Assessment Act* and the *Fisheries Act* could come into play in the **review** and approval process. The *Ministry of Natural Resources Act* allowed the Minister of Natural Resources to require proponents of **hydroelectric** energy projects to provide information prior to granting of approvals relating to development of a renewable energy project. A sophisticated review and approval process was developed and, throughout the late 1990's and 2000's, the MNR worked on refining the tools, policies, procedures and requirements including working with stakeholders and other Ministries to further refine the process.

Green Energy Act - A new direction:

In its efforts to streamline the approval process for renewal energy projects, the Province wanted to create a regime where one Ministry would have oversight and responsibility for the review and approval process. As stated earlier, the GEGEA amended many provincial statutes and enacted the GEA as a standalone piece of legislation by which the Ministry of Environment **became** the central processing body at the provincial level coordinating the comments and approvals received from all interested stakeholders.

The vehicle through which the MOE and MNR regulate the approvals for proposed hydroelectric energy developments is through the existing Class Environmental Assessment



process. The MOE and MNR approval requirements continue to apply to waterpower facilities proposed to generate renewable energy.

For waterpower **projects**, the Ministries elected to rely on the streamlining efforts set out in the Water Power Class Environmental Assess (2008). Projects having a name plate generation capacity of more than 200 MW are required to go through an Individual Environmental Assessment. Projects that fall below this 200 MW **threshold** and that are expected to an environmental impact that can be mitigated are subject to the Class EA process. The Water Power Class EA was designed to allow proponents of waterpower **projects** to coordinate the requirements under various government Ministries and pieces of legislation in a single process.

*Municipal Impact- Changes to the **Planning Act**:*

The GEA amended subsections 50(3) and 50(5) of the *Planning Act* and added section 62.0.1 and 62.0.2 to exempt renewable energy projects and renewable energy generation facilities from the direct regulation, control **and** approval processes available under the ambit of municipal planning authority.

Subsections 50(3) and 50(5) of the *Planning Act* were amended **to** include a new exception to the subdivision and part lot control restrictions in the Act to allow long term leases of between 21 and 50 **years** for the purposes of renewable energy generation facilities and renewable energy projects. The amendment was intentionally geared to accommodate the long term **lease** arrangements required to dovetail with the Province's feed-in tariff program ("FIT") that provided a standard offer contract to purchase power from waterpower generation projects for a term of 40 years in order to encourage the development of renewable energy sources.

In addition to the amendments to the subdivision and part lot control provisions of the *Planning Act*, the GEGEA added new a couple of new **section** to the Act. The addition of Section 62.0.1 to the *PLanning Act* exempts renewable energy generation facilities and renewable energy projects from *most* municipal planning controls including zoning **by-laws**, site plan control by-laws and interim control by-laws. As well, the addition of Section 62.0.2 exempts such facilities and projects from compliance with official plans and provides that demolition control by-laws do not apply to a renewable energy undertaking.

Prior to the enactment of the OEA, proponents of renewable energy projects were required to comply with the official plan and **zoning** by-laws of a municipality or, **alternatively**, seek approval for a minor variance or an OP and zoning amendment as **necessary**. This is no longer the case. The enactment of the GEA and the resulting amendments to planning and environmental legislation have served to reduce somewhat the local public consultation process and have substantially restricted third party rights of appeal.

Municipalities are no longer approval authorities for renewable **energy** projects and have been reduced to commenting bodies only. Rights of appeal formerly available to the OMB



are now restricted in nature and are to the Environmental Review Tribunal (“ERT”) under the *Environmental Protection Act*. While the OMB process enabled members of the local **community**, interested stakeholders and/or the municipality to initiate a hearing in which the prospective developer and all interested parties could advocate their positions, the EPA process is more restrictive.

Section 16 of O. Reg 359/09 of **the** *Environmental Protection Act* requires a person who proposes to engage in a renewable **energy** project to hold at **least** two public meetings in the local **municipality** where it is to be developed. Section 18 of the Regulation requires that at least 90 days before the final of the two public meetings held for the purposes of **Section 16**, the proponent must distribute a consultation form to, among others, the clerk of each local municipality and upper-tier municipality in which the project location is situated.

Subsection 18(2) of the Regulation states that the consultation form is to be distributed for the purpose of consulting on matters relating to municipal or local infrastructure and servicing. Additional matters to which proponents are required to consult are set out in Table 1 of the Regulation a copy of which is enclosed. Table 1 outlines the supporting documents that must be enclosed in an application for a renewable energy approval under the *Environmental Protection Act*.

The net result of this is to remove from the municipal level of government **decision** making impediments to renewable energy projects. While proponents are required to **engage** in consultation with municipalities during the approval process, local authority to control or stop such projects has largely been **removed** and placed at the provincial level with limited appeal rights to the ERT.

ERT Appeals under the Green Energy Act

Schedule G of the GEA sets out an appeal **process** from renewable energy approvals and embodies the following **key** elements:

- 15 day timeframe for notices of appeal, unless **varied** by regulation
- No leave to appeal requirement
- Deemed approval **if** appeal not resolved within timeframe as set out in regulations
- High standard of proof with onus on appellant
- Appeal must be decided consistent with MOE policies issued under section 41.7 of the EPA in effect at the time the approval is issued

Under the Act, a "person resident" can appeal a renewable energy project only on grounds that it will cause "serious **harm** to human health" or "serious and irreversible harm to plant life, animal life or the natural environment". The harm must not only be **serious**, and in the case of plants, animals and the natural environment, irreversible, but the burden of proof rests with the appellant to prove that it **will** occur as a result of the proposed development.



While there is some case law that suggests the a softer "ecosystem" approach is the more appropriate standard to follow, the clear principles set out in the GEOEA and the policy objectives set by the government to move toward a green economy with green energy at its base appear to favour a fairly rigid adherence to the high burden of proof before the ERT. Successful appeals of approved energy projects are very likely to **be** quite limited.

Municipal Control and Regulation of Green Energy Projects -Is there any?

As a result of the significant curtailing of local municipal oversight on green energy proposals, several writers have attempted to look at what residual powers might be available to municipalities to control, regulate and perhaps even stop green energy proposals. The curtailment of municipal authority over green energy proposals under the *Planning Act* leaves little, if any, ability in the hands of local government to influence or prevent development on land within municipal boundaries apart from the consultative role under the EPA process.

Still, some legal writers have suggested that the broad and flexible powers given to municipalities under the *Municipal Act, 2001* may yet be utilized **to** regulate and restrict green energy initiatives. Relying on the decision in *J14957 Canada Ltee (Spralech, Société d'arrosage) v. Hudson (Town) (2001)*, 2 S.C.R. 241 ("Hudson"), it has been suggested that the by-law making powers afforded to municipalities under the *Municipal Act, 2001* might provide a mechanism to regulate or prohibit green energy projects including by-laws dealing with:

- Economic, social and environmental well-being of the municipality (Section 11. para. 5)
- Health, safety and well-being of persons (Section 11. para. 6)
- Protection of persons and property, including consumer protection (Section 11. para. 8)
- Structures, including fences and **signs** (Section II. para. 10)
- Regulation of public nuisance (Section 128)
- Regulation of noise, odour, dust etc. (Section 129)

These suggestions are based, in **part**, upon in decision in cases such as Hudson where the Court have recognized that it was possible for a municipal regulatory by-law to **co-exist** with upper level government legislation where the municipal by-law did not conflict with the senior level government legislation. The Courts have been tending toward the adoption of a very restrictive view of what constitutes a conflict in these cases and appear to be efforts to allow the municipal legislation to co-exist with the senior government legislation.

The suggestions are also based, in part, on recent Court decisions that have taken a deferential approach to the interpretation of powers available to municipalities under new municipal legislation including the *Municipal Act, 2001*. Cases such as *Toronto (City) v. Goldlist Properties Inc. (2003)*, 67 O.R. (3d) 44/ have supported a deferential approach to municipal authority and taken a restrictive view on the **issue** of conflict where Provincial legislation permitted development of a property dealing with conversion of rental properties



to condominiums and the local municipal legislation contained such restrictive rules that the project was effectively prevented.

Having said this, there is no case law at this time that would assist in interpreting how a Court might approach the issue of conflict between a municipal by-law enacted to regulate, control or prevent a green energy project such as the Bala Falls project proposed under the GEA. In my opinion, it would be very difficult to defend a municipal by-law enacted with the purpose of regulating or preventing a green energy project given that the Province has specifically built into the GEGEA legislation a packaged approval process that relegates municipalities to that of a consultative role only. The by-law would have to have been enacted in good faith and based upon some objective criteria **relating** to health, safety or environmental **protection** in my opinion.

In addition, unless there is clear evidence of serious and permanent harm to the environment (which, broadly defined, might include the impact on the local community), any adverse impacts are to be mitigated through measures imposed on the proponent through the EPA review process. To me, this is reinforced by subsection 5(2) of the GEA that allows a designated renewable energy project to proceed despite "**any** restriction imposed at law that would otherwise prevent or restrict the activity". Under subsection 5(3) of the GEA, municipal by-laws that purport **to** restrict a designated renewable energy project will be deemed to be inoperative to the extent that they would prevent the designated activity.

In view of this, it is my opinion that the Courts are more likely to favour the provincial legislation as providing a complete review and approval mechanism that substantially ousts the jurisdiction of municipalities over green energy proposals except in the consultative role and any appeal rights that might be exercised before the ERT under the EPA.

Moreover, it has been **noted** that Section 451.1 of the *Municipal Act, 2001* allows the Lieutenant Governor in Council to make regulations imposing limits and conditions on a municipality's **exercise** of its general power (but perhaps not its specific powers such as by-laws dealing with nuisance). While the regulation is time-limited to 18 months, it would allow time for the Province to override a municipal by-law **that** sought to regulate or prohibit a green energy project.

Conclusion

In view of the overall intent of the legislation and the underlying government policy to promote and develop an economy based on sustainable renewable green energy, it is very unlikely that a municipality could prevent a green energy project from proceeding if it is likely to obtain EPA approval. The recommended approach is to participate actively in the consultative process by requesting detailed information and responses to objective questions at the earliest possible stage. It is also recommended to focus on mitigative factors and alternatives that will attain the best solution local municipal interests with respect to a particular green energy proposal.



J note, as well, that the GEA has amended the *Environmental Bill of Rights* to impose and obligation on the Environmental Commissioner to provide an annual report to the speaker of **the** Legislative Assembly on the progress of activities in Ontario. Under subsection 58.1 (2)(c)(ii), the report must include an identification of any municipal by-laws that have created barriers to the development or implementation of measures to reduce the use or make more efficient use of electricity, natural **gas**, propane and transportation fuels.

I trust that this opinion will be of assistance to you. If you have further questions or concerns, please do not hesitate to contact me.

Yours very truly,

BURGAR ROWE
Professional Corporation

A handwritten signature in black ink, appearing to read 'James I. McIntosh', is written over a light grey rectangular background. To the right of the signature are two horizontal lines, one above the other, indicating a signature line.

Per: James I. McIntosh
JIMljm
email: mcintosh@burgarowe.com
cc:

end:



March 18, 2010

Township of Muskoka Lakes
 P.O. Box 129
 1 Bailey Street
 Port Carling, ON
 POB 110

Attn: Mr. Walt Schmid, P.Eng., CAO

Re: North Bala Falls SmaU Hydro Project - Response to Elevation Request Dated
 November 27, 2009

Dear Walt

The following letter attempts to address those concerns outlined in your report issued to Council dated November 24, 2009 that was attached to your elevation request dated November 27, 2009 to our consultant Hatch Energy and the MOE Director of the EAAB. Many of the items were discussed with you previously during our meeting of January 22, 2010 and subsequent phone conversation on February 1, 2010.

Item 1. Will the Bala North Dam be operated within the Lake Muskoka / Bala Reach Operating Ranges as set out in the MRWMP?

- a. *The municipality **seeks** further clarification both from MNR and SREL **as to** the impact on Lake Muskoka water levels **during** high flows or the spring freshet, resulting from the establishment of the temporary cofferdam/working platform proposed to be constructed in the North Channel upstream of the powerhouse intake. Will the temporary cofferdam/working platform result in temporary **higher** water levels in Lake Muskoka? **If so**, to what extent?*

MNR will continue operations of the two dams to maintain the water levels on Lake Muskoka and the Bala Reach during the construction period as they do currently. Both the North and South Bala dams will remain operational during the construction period. The proposed upstream cofferdam will be located upstream of the road bridge leaving all of the North Dam spill bays available for passing flow. The South Dam will continue to have priority in terms of releasing flows from the Lake. Additional spill capacity is available at the North Dam once the maximum spill capacity at the South Dam is achieved.

The construction of a temporary cofferdam will have little or no effect on water levels during high flows or the spring freshet. Any raising of the water level caused by the cofferdam can be easily compensated for by the removal of stop logs. Note that the upstream cofferdam will cover a relatively small area, as the actual intake structure will be constructed in the dry behind a rock

2300 Yonge Street
 Suite 801, P.O. Box 2300
 Toronto, ON M4P 1E4
 Phone: 1-866-578-BALA (2252)

plug. The cofferdam will only be required for some localized deepening of the intake channel. In order to limit any possible complications with spill operations, the construction schedule is planned to employ the upstream cofferdam outside of the spring freshet months of April and May.

- b. *Does the south dam have the capability to convey all the upstream flow? If not, to what extent does the south dam have the ability to relieve higher water levels on Lake Muskoka?*

The combined capacity of the north and south dams corresponds to the I: 100 year spring flood of $470 \text{ m}^3/\text{s}$ at a lake water level of 226.4 m. The south dam has the capacity to pass $252 \text{ m}^3/\text{s}$ and the north dam $218 \text{ m}^3/\text{s}$. With the cofferdam in place, creating a restriction in the north channel, the reduced combined flood capacity of the north and south dams would be approximately $430 \text{ m}^3/\text{s}$ at a lake water level of 226.4 m (as estimated by our consultant Hatch). This reduced capacity corresponds approximately to the I:48 year return period spring flood flows.

It should be noted that based on historical records, the majority of the high spill requirements occur during the spring freshet period in April/May. In order to limit complications with spill operations, the construction schedule, as stated in Section 5.2.8.2 of our ESR is planned such that the upstream temporary cofferdam will be installed in the initial year of construction following the spring freshet (July) with the intention of removing it prior to the freshet the following year (February), thereby avoiding this period of high flow.

As is typical for these types of installation, the cofferdam will be constructed to withstand the I in 20 year spring flood event. The I in 20 year flood for this location is $362 \text{ m}^3/\text{s}$ which is less than the temporary combined capacity of the two dams.

- c. *Are there other constrictions upstream of the **North Dam** that has a greater effect on any backwater effects in Lake Muskoka created by the working platform?*

There are upstream constrictions that can create localized changes in water level at the dam. In addition, given the large size of Lake Muskoka also experiences wind effects that can change water levels. All of these issues are currently managed within the MRWMP and will continue to be during the construction period.

- d. *What measures are proposed to mitigate upstream flooding during construction should the introduction of the working platform create increased water levels on the Lake?*

Should a flood event occur that could not be passed by the combined South Dam and reduced capacity North Dam, SREL would have the cofferdam removed to allow the flood to pass. Given that the proposed work to be done behind the cofferdam will only be excavation work to deepen the channel, removing the cofferdam can be done quickly and easily, without any damage to our new construction. Note again, that the construction schedule will be designed to have this work completed outside of the spring freshet high flow period to minimize the chance of this scenario occurring.

Township of Muskoka Lakes
March 18, 2010

- Item 2. That any potential generating facility consider the need for scenic flows, public access for traditional uses and continuity of business in the local areas.
- a. *It is recommended that both dams be modelled in order to visually observe the proposed controlled waterflows. Based on **this** observation, a better determination can be made to establish an acceptable aesthetic flow over the dams.*

SREL and its consultant Hatch, with the assistance of MNR, completed a Qualitative Flow Assessment for the project in June 2009. An abridged version of this report is provided attached for your review. It includes photos from various locations around both dams at a flow of 2 m³/s. Unfortunately we were not able to reduce the flow to 1 cms at that time due to some worn or warped logs. In order to reduce to 1 cms, we will likely require replacement of stoplogs. A video was also taken at south dam at a flow of approximately 2.5 cms. Unfortunately, MNR had already started removing some of the logs before we were able to film the flow at 2.0 cms. This 28 second video is available to Council on request.

- b. *A joint review committee of MNR, SREL, and **township** representatives, perhaps a member of the MRWMP Public Advisory Committee are recommended.*

SREL would welcome meeting with the MNR, Township representatives, and MRWMP Standing Advisory Committee (SAC) (note the PAC is no longer in effect) (as deemed appropriate) to discuss this report and its findings at the Township's convenience. It is our understanding that the Township has already been in contact with the MRWMP SAC. SREL has discussed this possibility of this committee with MNR, who has agreed to be an observer of the "joint review committee" that you suggest and could provide any regulatory input as requested. They would not, however, be a member of the actual review committee.

Note that it is our understanding that the final minimum flows to be provided over the North and South Falls will be determined by the province (MOE and/or MNR).

- Item 3. That a member of the MRWMP Public Advisory Committee be included on the review team for the proposed development.
- a. *Input from this important committee would be beneficial to **the** final analysis of the ESR. Additional **time** to seek MRWMP **input** is required.*

SREL has provided contact information for the MRWMP Standing Advisory Committee (SAC) Chair.

It should be noted by the Township that SREL met with the MRWMP SAC on November 4, 2009 (during the 44 day public review/comment period for the ESR) at MNR's Bracebridge offices to announce the release of the ESR document and outline the highlights of the document with focus on the proposed addendum to the MRWMP. A question and answer period followed the brief presentation.

The Water Management Planning Section of the ESR is intended to be a stand-alone document. Upon the official order for amendment, this stand alone document will be reviewed by the SAC and a determination made by MNR in consultation with the committee. The WMP order follows the EA process.

Township of Muskoka Lakes
March 18, 2010

Item 4. That the ESR addresses the heritage value of the North Bala Falls and any related heritage impact the hydro generating station may have on the falls.

- a. *Ministry of Culture must sign a letter of clearance of the archaeological condition prior to any construction operations, earth moving or blasting takes place.*

SREL received a letter from the Ministry of Culture dated March 6, 2009, accepting the Stage 2 Archaeological Report for the Project that recommends complete clearance of the archaeological condition of the subject property. A copy of this letter is attached.

- b. *It is noted that the Historical document should be revised to clarify that ownership of the old Bala #1 Generating Station (Mill Street) resides with the Township of Muskoka Lakes.*

SREL acknowledges that while the Township of Muskoka Lakes owns the "building and property" that the Bala #1 Generating Station (Burgess GS), the actual "business" is owned and operated by Algonquin Power or its subsidiary, as are the rights to the water rights for the facility.

- c. *Council has received recent correspondence from the Muskoka Branch of the Architectural Conservancy of Ontario expressing concern that the project will negatively impact cultural qualities of the area. Additional time is required for further dialogue between all parties to fully understand their concerns.*

It is assumed that the Township has had sufficient time to dialogue with the Architectural Conservancy between the issuance of the elevation request and the writing of this response. No update has been received by SREL regarding this matter. SREL has, however, since contacted the President of the group (February 13, 2010) and offered to meet with its representatives. At the time of writing, however, the group has not been able to provide a date at which they are available to meet. It should be noted by the Township that this group is not a government regulatory body, but instead a possibly affected stakeholder and special interest group.

- d. *Official Plan: It should be noted that sections of the Planning Act speak to Green Energy Development. Further discussions with SREL and Hatch Energy are required to fully understand the proposed concepts and proposed mitigating measures.*

As quoted on the Ministry of Municipal Affairs and Housing website "As a result of the new approvals framework established through the Green Energy Act (GEA) and related regulations, most renewable energy developments ... with some exceptions, are exempt from the provisions of the Planning Act." This exemption includes projects and facilities which generate electricity from renewable sources such as water (as is the case for the North Bala Falls Project). The effect of this exemption is that renewable energy projects are not affected by the following local planning instruments:

- Official plans
- Demolition control by-laws
- By-laws or orders passed under Part V of the Planning Act, including zoning, site plan, holding and interim control by-laws
- Development permit system by-laws

Also, the GEA has amended the Planning Act to allow leases up to 40 years for renewable energy projects without obtaining an approval under the Act.

Policy 1.8.3 of the Provincial Policy Statement, 2005 directs that renewable energy systems shall be permitted across Ontario - in settlement areas, rural areas and prime agricultural areas – in accordance with provincial and federal requirements.

As stated in the ESR, SREL is proposing to mitigate impacts by:

- Ensuring access is maintained to both sides of the north and south falls
- Professionally landscaping the area to create a public park and river/sunset view lookout
- Providing an upper lookout area adjacent to the road, that is handicap accessible
- Incorporating interpretive signage into the site to describe the heritage of the area and its history with waterpower.
- Assisting the Township with the construction and installation of a year round snowmobile/pedestrian bridge between the Bala wharf and Diver's Point. The details of this are, however, still to be discussed.

Item 5. That the ESR take into consideration the potential impact that the proposed construction may have on the Bala economy, including the winter economy, by addressing safe snowmobiling movement around the site, by investigating alternative water crossings of Bala Bay.

Impact on Bala's Economy During Construction:

- a. It is recommended that an Economic Impact Study be conducted by SREL to illustrate to what sectors of the local economy may benefit and what sectors may be negatively impacted and what can be done to mitigate effects. The study should consider the creation of a local committee, **comprised** of SREL, the contractor and local representatives that would meet on a regular basis to identify "items of concern" prior to the issues becoming "problems". This committee **should** develop "proactive" business strategies in support of local businesses and retailers i.e. roadside signage **indicating** "Bala Merchants are Open for Business During Construction".*

SREL is currently considering the preparation of an Economic Impact Study, should we determine that it **could** provide useful information to ourselves and the community. We are currently contacting various economic consultants to discuss the tenor of reference for such a study.

SREL will also look to the Township for assistance with the development of a Terms of Reference for such a report should we decide to proceed. SREL has also scheduled a meeting with the Chamber of Commerce Executive for March 25th to discuss strategies and suggestions they may have to minimize potential negative impacts to their respective businesses during the construction period. Since this meeting was set up, the C of C has posted a notice to all members requesting input for this meeting.

A large construction project such as the one SREL are proposing, can be expected to provide some construction opportunities in the area as Contractors generally try to hire local labours. It is estimated that 4,000 to 6,000 person hours will be required for this project.

In addition, we foresee direct business opportunities for various service and retail industries in Bala and Muskoka with respect to lodging, restaurants, building supplies, fuel etc., while the contractor work force is in town for the 12-18 month period. It is estimated that an average of 15

Township of Muskoka Lakes
March 18, 2010

workers will be required on site during this period. These direct opportunities generally result in "trickle down" or indirect opportunities for other business' in town that may see more business because the neighbouring businesses are profiting.

In addition, this may be an opportunity for some of the seasonal businesses, in particular for lodgings, to make the investment to winterize their facilities if they have a known revenue stream for 12-18 months. Then after the construction is over, these facilities will be ready to accept snowmobiling or other winter customers in future years. It should be noted that SREL and the Township of Muskoka Lakes are in discussions about SREL assisting the Township to install a new year round snowmobile/pedestrian bridge from Diver's point to the Public Docks that would further enhance the snowmobile industry for the area.

SREL are also in the process of investigating the options for including a "buy local where possible" policy in its agreements with the project contractors.

- b. SREL should ensure existing tourism events **such as** the Bala Bay Regatta, Cranberry Festival etc. Are minimally effected by any construction interruption.*

SREL is committed to working with the community to ensure that existing tourism events are minimally affected during the construction period. By completing all road work during the off-peak season, road interruptions should be minimized. Much of this could be attained by restricting or limiting construction activities during these events which generally occur on weekends. (Regatta-Civic holiday weekend, Cranberry Festival - Weekend after Thanksgiving, Craft and Gift Fair - 2 weekends: July and Oct, Antique and Nostalgia Show – 2 weekends July and October, Santa Clause Parade - weekend in November). Other events such as the summer market that occur on Mondays, will have to be investigated with the Contractor and market organizer.

- c. It is recommended that SREL incorporate "buy local where possible" policies in its agreements with project contractors.*

It is SREL's intention to discuss this option with the Chamber of Commerce at the March 25th meeting discussed above.

- d. Snowmobiling during construction: There may be safety issues with snowmobiles crossing the proposed temporary Bailey bridge if it has a steel deck.*

SREL's engineers have indicated that an alternative deck material is entirely possible and will be included in the construction specifications (possibly timber). Note that this Bailey bridge will only be in place for the first winter season. This will not be an issue for the second winter season.

- e. SREL has proposed a joint venture with the Municipality for the provision of a Four Season Bridge from Divers Point Park to the Bala Wharf. Further discussions with the Township and the local snowmobile club are required to address this issue.*

SREL remains committed to assisting the Township with the installation of the above mentioned bridge, should the North Bala Falls Small Hydro Project proceed, and the installation/construction of the bridge coincides with the Hydro Project's construction period. Details of such a joint venture would need to be worked out in further discussions between the Township and SREL.

Township of Muskoka Lakes
March 18, 2010

It should be noted that if the hydro project doesn't proceed, this bridge would have to be significantly higher and more expensive than currently planned. Alternatively, the Township would need to obtain a navigational restriction to the North Channel from Transport Canada, or it would restrict access to the existing Purk's Place Boat House and **Marina** (not currently zoned for marina use).

- f SREL proposes to close Bala Falls Road between the CPR overpass and MR#169 during construction. Township Council approval is required for this road closure.*

SREL will apply for approval of this road closure at the appropriate time in the construction process. Is it possible to get this approval at this point in time?

- a. Section 5.2.1 of the ESR speaks to the possible crushing of rock on site. How will noise and dust emissions be monitored and controlled? During what time of year is the crushing proposed?*

Subsequent to the issuance of the ESR, SREL's engineers have concluded that no on-site crushing will be required.

- b. The ESR should address the introduction of the upstream cofferdam/working platform in the North Channel and any potential backwater effects it may have. The Township requires further clarification and **input** from Hatch and MNR.*

See Item 1.

- c. **Muskoka** Road #169 will be closed for two nights during construction as the intake channel is constructed under the roadway.*

Road closures will be coordinated with the appropriate emergency services, so as to ensure that an option exists for emergency response during those closures. The conditions surrounding road closures will be agreed upon before permission is granted.

- d. A one lane Bailey bridge is proposed for 2 weeks prior to installation of a two lane Bailey bridge structure. Timing of the installation is requested to ensure proper coordination with other Bala events and activities.*

Two 2-week lane reductions will be required before the installation of the **two** lane Bailey bridge **structure** to install its foundations. A second set of two 2-week lane reductions will be required upon removal of the bridge to remove the foundation work. All four weeks of lane reductions are planned to be conducted in the off-peak season (between the months of November and Victoria Day weekend). Notice of these lane reductions will be provided to the Municipality as well as the local businesses to ensure they don't coincide with any Bala events or activities. This timing will not be known until after a contractor is chosen.

Impact on Bala's Economy during Operation:

- e. Will reduced flows over the North and South Falls have a negative effect on both existing and new spawning beds? Is 200 m² of "manmade" spawning habitat sufficient to maintain the fishery?*

Fisheries and Oceans Canada (DFO) is the federal agency responsible for fish habitat, while the MNR is the provincial agency responsible for fish community and fisheries. A Fisheries Act Authorization is issued by DFO when the impacts to fish habitat are adequately mitigated. A mitigation plan has been proposed. A Fisheries Act Authorization application will be filed with the DFO. This typically follows the submission of the ESR. The DFO and MNR have both reviewed the ESR and provided comments. These comments are being addressed by SREL and its fisheries experts. Application for Fisheries Act Authorization will be filed thereafter. This authorization will be issued only upon satisfaction of the DFO conditions.

- f Reduced flow over the North and South Dams: The Township needs to fully understand the visual impact on both falls and potential economic impact. Consideration should be given by the province, providing it flexibility to increase the minimum flows over the dams if the proposed flows seriously affect the aesthetics of the falls.*

Please see answer to Item 2 above. The final determination of the flows to be released over each of the dams will be determined by MNR. As stated in Item 5 a), SREL is currently considering conducting an Environmental Impact Study to investigate impacts from changes to the aesthetics of the falls and any possible mitigation measures.

- g. The township wishes to participate in the proposed park design and discussions relating to ongoing park operations as well as the development of illustrative plaques in the Bala Falls area as recommended by Historica.*

SREL is committed to forming a Public Advisory Group to gather input on the park design and illustrative plaques among other things. A representative from the Township would be welcomed to the group when it is formed during the detailed design stage of the project (following the EA process).

- h. Section 9.4 should be revised to indicate that Burgess Generating Facility is owned by the Township and operated by Algonquin Power.*

SREL acknowledges that while the Township of Muskoka Lakes owns the "building and property" that the Bala #1 Generating Station (Burgess GS), the "business" is owned and operated by Algonquin Power or its subsidiary, as are the rights to the water rights for the facility.

Public Safety

- i. The ESR should confirm that the upstream and downstream booms are in fact the final locations.*

The final location of safety booms will be determined by Transport Canada (Te). TC has reviewed the ESR and provided written comments on the project as provided attached. These comments confirm that the proposed upstream and downstream boom locations are "reasonable" as shown in the ESR. An Application for Navigational Water Protection Act Authorization will be filed after final acceptance of the ESR. This authorization will be issued only upon **satisfaction** of the Te.

- j. The Township requires further clarification as to the expected flows in and around the Bala Wharf under various flow conditions during different times of year. A comparison of existing flow velocities is also requested (water going over the existing*

Township of Muskoka Lakes
March 18, 2010

*North Dam). The Township requires that flow velocity figures be created for the area further out into Bala Bay to understand **the** potential impact on recreational swimming, canoeing and boating in the area and related safety issues.*

The attached letter from TC confirms that while velocities may exceed 0.61 m/s at the intake, the velocity near the Bala Wharf will dissipate to 0.3 m/s during spring low and at full plant operation. TC further concludes that navigation will not be affected in the Bala Wharf area.

- k. *Clarification is required regarding the ability of the public to access the **north** shore of **the** North Falls. Will currents **from** the tailrace prohibit swimming in the area?*

As illustrated on the attached figure 6.5 from the ESR, there will be no restricted access to the north shore of the North Falls, downstream of the dam. TC's attached letter also states that while velocity at the outfall will increase from 0.6 to 1.3 m/s, overall velocities will be reduced from 2.4 to 1.3 m/s. It also states that velocities will quickly dissipate to negligible. Therefore, velocities will not be significantly affected on the north shore.

SREL, however, cautions the Township that swimming in this area is currently not advised. "Danger - Fast Water - Keep Away - No Swimming" signs are posted on the downstream face of the North Dam. SREL cannot, therefore, suggest that it would be safe to swim in the area either with, or without, the installation of our project.

TC's letter does, however, indicate that because the flow from the tailrace will be straight out from the plant and perpendicular to the shore, it will eliminate the swirling (circular) flow which presently occurs in that area during high flows. The removal or reduction of this swirling water should allow for easier handling of small vessels in the zone around the tailrace.

- l. *Confirmation is required that public will have access to the **south** bank of the North Channel.*

As the attached Figure 6.5 from the ESR illustrates, there will be no restricted areas along the south bank of the North Channel, downstream of the North Dam. SREL is also proposing to construct a new set of stairs down this incline to facilitate access.

- m. *Section 6.3.6.1 requires clarification regarding the "portage" route between Lake Muskoka and **the** Moon River.*

Suggested alternative portage routes to replace the current upstream "take out" on the crown land adjacent to Purk's Place, include the flat area adjacent to the Bala Wharf (Bala Bay) and Diver's Point, during summer low flow conditions. "Put in" locations downstream include the Town Dock in Bala Reach. TC's attached letter **confirms** that these locations are appropriate.

- n. *Section 6.3.6.1 indicates that access to the water in the area of the works will be discontinued. Clarification is requested as to how this restriction will be done.*

The attached Figure 6.5 clearly outlines the restricted area during the operations phase of the project. The water side of the tailrace restricted area will be enclosed by a floating safety boom and the land side will be blocked with a combination of landscaping features (vegetation and rocks) as well as architecturally designed handrail systems that meet the Ontario Building Code to keep children from falling through or people climbing on.

The landside of the restricted area around the intake will be enclosed by fencing. All attempts will be made to ensure that this fencing is either visually appealing or masked by vegetation. The upstream end of this area will be blocked with a floating safety boom.

There are currently no plans to fence the area along the upstream north shore of the North Channel as this is Municipal land. SREL would be open to discussions with the Municipality should they wish to have SREL assist with the installation of fencing and/or landscaping to provide a physical barrier between the land and water. The water in this area is currently not easily accessible by land already because of the very dense shrubbery and rocks (see photo attached).

SREL also do not have any current plans to erect any barrier on the CP Rail land where it meets the restricted zone unless requested by CP Rail. Again, the water in this area is not easily accessible from land as the rail bridge abutments and vegetation restrict access to a large extent (see photo attached).

- o. The Township requires clarification that the trail along the north side of the upstream North Channel will not be affected by the proposed construction or operations.*

No work is proposed to be completed on or near the north shore of the North Channel, upstream or downstream of the North Dam, with the exception of the downstream anchor for the relocated boom and the installation of the proposed year round pedestrian/snowmobile bridge should the Township wish to proceed. See above item (n) for possibilities regarding barriers to water in this area.

- p. SREL is requested to identify any restrictions or warnings that may be imposed on divers in and around the works.*

Divers will no longer be able to dive in the area shown in yellow on the attached Figure 6.5.

Generally diving is not recommended near intakes or upstream of dams. It has been suggested by members of the public that divers currently use the area off Diver's point to commence dives. While this is not recommended either with or without our project, our project should not significantly change the existing strength of the currents in this area. Divers would, however, risk the chance of swimming below the two closely spaced safety booms. This is currently the situation with the adjacent south dam. Signage will be posted to notify people of the dangers of passing into the restricted zones beyond the safety booms, similar to what is present at the south dam.

There would be a small restricted area within the tailrace boom downstream of the plant as shown on Figure 6.5. It is assumed that divers generally use the deeper areas downstream of the dams and should, therefore, they should not be significantly impacted by our project.

Future Employment and Economy

- q. The Township requests that an Economic Impact Study be undertaken by an independent consultant to identify both the positive and negative attributes of the proposed development after the construction is completed and the plant is operational. The study should identify amongst other things, the effect on the*

Township of Muskoka Lakes
March 18, 2010

*seasonal and year round economy given the proposed changes to **the** North and South Falls. If negative concerns are raised **the** report **should** identify possible mitigating measures that could be taken.*

As stated above, SREL are seriously considering undertaking an Economic Impact study to identify impacts to the local economy for the construction and operational periods and outline possible mitigation measures. SREL are proposing to hire Bracebridge Generation, a branch of Lakeland Holdings out of Bracebridge, for the plant operations, maintenance and management. Bracebridge generation has indicated that they foresee hiring additional staff for this role.

Bonding and Securities

r. The Township inquires whether the Province requires a Bond or Security for the completion of the project.

It is my understanding that the Provincial Government does not generally require such a thing for these types of projects. However, SREL are required to provide security to the Ontario Power Authority (OPA) under our FIT application and eventual FIT contract to ensure that we do proceed to Commercial Operation.

In addition, both the original MNR site release program and the recent OPA FIT application required verification of SREL's financial capability to complete the project.

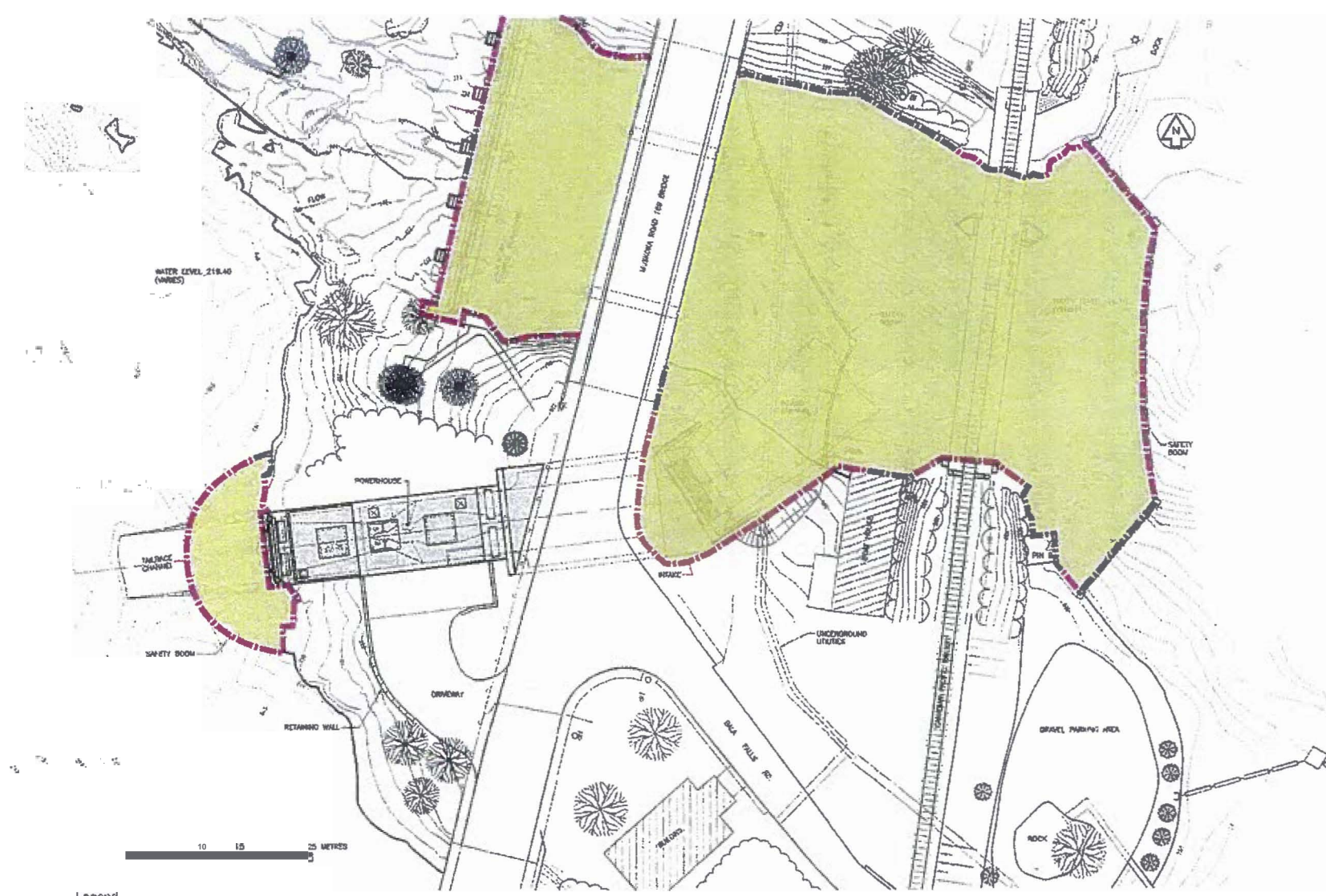
Please feel free to distribute this letter to the other councillors and/or staff as you feel appropriate.


Respectfully,

Karen McGhee

North Bala Small Hydro Project Manager
Swift River Energy Limited

c.c. Trion Clarke, Hatch Energy
Kristina Rudzki, EAAB, MOE



Legend
 Areas to which access will remain restricted (by signage and floating safety booms) following construction.

Swift River Energy Ltd.
 North Bala Small Hydro Project
 Areas Restricted During Operation

Ministry of Culture

Culture Programs Unit
Programs and Services Branch
4355 . James St. . Suite 334
Thunder Bay, ON P7E 6S7
Tef: (B07) 475-1632
Fax: (B07) 475-1297
Email: paige.campbell@ontario.ca

Ministère de la Culture

Unité des programmes culturels
Direction des programmes et des services
Bureau 334. 435 rue James sud
Thunder Bay, ON P7E 6S7
Tél: (807) 475-1632
Télééc: (807) 475-1297
Email: paige.campbell@ontario.ca



March 6, 2009

Donna Morrison
Advance Archaeology
PO Box 493
Port Hope, ON L1A 3Z4

Dear Donna,

Re: Review **and** acceptance into the provincial register of reports the archaeological assessment report entitled "Stage 2 Archaeological Assessment of North Bala Hydroelectric Development, part of Lots 14 and 15, Concession A of Geographic Medora Township and part of Lot 33, Concessions 6 and 7 of Geographic Wood Township, now in the Township of Muskoka Lakes, Muskoka District Municipality" written on December 10, 2008, received on March 4, 2009
PIF: P121-065-2008
RIMS: HD00370

This office has reviewed the above-mentioned report, which has been submitted to this Ministry as a condition of licensing in accordance with Part VI of the Ontario Heritage Act, R.S.O. 1990, c. 0.18. This review is to ensure that the licensed professional consultant archaeologist has met the terms and conditions of their archaeological licence, that archaeological sites have been identified and documented according to the 1993 technical guidelines set by the Ministry and that the archaeological fieldwork and report recommendations ensure the conservation, protection and preservation of the cultural heritage of Ontario.

This Stage 2 field assessment revealed no archaeological materials and it is recommended that there should be a complete clearance of the archaeological condition on the subject property. The Ministry of Culture concurs with these recommendations and accepts this report into the provincial register of archaeological reports_

Please contact me with any concerns regarding this matter.

Yours,

A handwritten signature in black ink, appearing to read "Paige Campbell".

Paige Campbell
Acting Archaeology Review Officer
cc Swift River Energy Ltd.



Transport Canada
Marine

Transports Canada
Maritime

100 Front Street South
Sarnia ON,
N7T 2M4

Our File # 8200-07-6495

January 22 2010

Hatch
4342 Queen Street,
PO Box 1001
Niagara Falls, ON
L2E6W1

Attn: Trion Clarke

Re: Proposed hydroelectric Power Generation, Swift River Energy, North Bala Dam, Town of Bala, Province of Ontario

Dear Mr. Clarke;

I have completed my review of the Environmental Screening Review Report, dated October 2009, for the above described project.

I had previously commented on the Draft report March 12, 2009 and had concerns with the potential interference to navigation in the area of the intake channel, the surface water velocities proposed, impacts on portaging around the dam and the proposed safety boom requirements/locations. To address these concerns I requested additional information be provided either in the report or separately.

During my current review I have identified the following:

Navigation Interference

- Purk's Place: Impacts to the Purk's Place Boat House and Marina continue to be of critical interest to me. The ESR addresses this issue in a number of areas (3.5.5.1, 5.3.8, table 6.1, 6.3.6.1, 6.3.7.1 and in the D17 summary Volume II). Most of these references accurately reflect my concerns and indicate that a negotiated and mutually agreeable solution will be found between Swift River and Purk's Place. I am slightly concerned that the wording in table 6.1 implies that a settlement has been reached - where the remainder of the information indicates that negotiations continue.
- Surface Water Velocities: The additional information you have provided includes surface water velocities both current and expected in the intake and tailrace areas. I have used these figures (and descriptions in the document and those recently provided), to assess the impacts to navigation caused by the flow.
 - Velocity in the intake area may exceed 0.61 m/s, dissipating to 0.3 m/s nearing the Town Dock Bata Bay. These velocities reasonably correspond to the existing Spring flow velocities and will occur during the operation of the generator. Navigation will be affected in the immediate area of the intake but not in the Town Dock area.
 - Velocity in the outfall area will increase over existing for that location (0.6 m/s to 1.3 m/s); however, overall the velocities will be reduced (2.4 m/s maximum to 1.3 m/s maximum) and directed straight downstream. This will remove the circular flow patterns that exist and should make navigating a small vessel easier and more predictable.

Canada



- o Velocity in the intake **area** during extreme stonn events (figure 6.2d) will be **quite** high and not suitable for small boat navigation near the Town Dock Bala Bay. Your further explanation of this figure (email of **January** 18,2010) indicates that this flow and velocity will only be experienced during 1:100 year stonn events. These are extreme events and very rare. Small vessels should not be affected as they will not be using the area for **navigation** at those times.
- Bala **Regatta**: I have corresponded directly with the Bala Aquatic Association concerning their historic **regatta** and **you** have addressed their concerns in the ESR (2.2.5.7) and with the surface water velocity and plant flow figures (6.1, 6.2c). Their activities should be able to continue **as** they have planned.
- Historic Portage: There is evidence that **portaging takes** place adjacent to Purk's Place using the Crown lands **as** a take out location. If the **intake** channel is built on those lands the portage take out will have to move. I assessed the overaD location during my review and completed a site inspection. There exists an alternate location for take out (Diver's Point) and a second take out location adjacent to the Town Dock (Bata Bay). Put in locations exist **downstream** and will not be affected by the project (Town Dock in Bala Reach).
- **Water** Levels: The electrical generator is to be operated as a "**run-of-the-river**" system using the existing Muskoka River Water Management Plan (MRWMP) with a potential change in the Target Operating Level (TOL) of millus 5 centimeters. This change will not **affect** navigation either upstream or downstream.
- Safety\Warning Booms: I have assessed the proposed **locations** for both the intake and tailrace areas.
 - o The intake **boom** location (Bala Bay, upstream of the **rail** bridge) seems to be a reasonable location and will provide continued access to the Town Dock, Diver's Point and will allow the BaLa Regatta to continue without significant changes. The boom will directly affect the **Purk's** Place business by preventing water access to the docks and building. The existing Crown lands and portage will also be negatively affected.
 - o The **downstream Tailrace** Boom is reasonably located and will not remove access to navigation of **any** significant water area. Surface water velocities will be in the 1.2 mls to 1.3 mls range and quickly dissipate to negligible. This should not interfere **with** small **boat traffic** during the generator operation. I understand that this location was chosen to minimize the **water** area removed from navigation, reduce the visual impact to adjacent owners and maintain access to the North BaLa Falls **and** public access points.

Outstanding Considerations

During detailed project review we will require:

- A report on known accidents or **fatalities** in the North and **South** Bala dam areas.
- Final details of the Safety/Warning boom design (size, type, colour, spacing and anchoring system).
- Details of the temporary dewatering benns, installation, marking and removal plans.
- Water velocity changes and navigation protection **during** benn installations.
- Fish habitat Compensation plans and shoal **creation** areas to assess their impacts to navigation.



Transport Canada
Marine

Transports Canada
Maritime

- Temporary and permanent public safety measures planned and details (throw rings, fencing, navigation marking, signage etc.).
- Portage marking
- Possible Snowmobile/Pedestrian Bridge crossing of Bala Bay (section 6.3.6.1) - this will require a complete and separate application and approval under the Navigable Waters Protection Act (NWPAct).
- A follow up report of actual surface **water** velocities **obtained** during testing and **run** up of the operating hydro electric generator. This will be required in the intake area, the Town Dock Bala Bay and the tailrace area as a check against the modeling.

Please note that we will be a Responsible Authority (RA) for the Canadian Environmental Assessment Act (CEAA) as I have confirmed that Booms still trigger under the CEAA Law List. We will be participating in the current review initiated by the Department of Fisheries and Oceans (DFOW/FHM).

I must stress that the impacts **to the** Purk's Place business remain outstanding and hinder our ability to approve the proposed **project. Navigation** and Riparian access concerns must be addressed before Transport Canada proceeds with detailed project approvals.

If you have any questions, **comments** or concerns with my review of the ESR please do not hesitate to contact me at your convenience. I have two office locations 613-990-5901 Ottawa and 613-925-1934 Prescott. My email address is at.robertson@tc.gc.ca for both offices.

Yours truly;

At Robertson
Senior NWP Officer
Transport Canada
Navigable Waters Protection
Ontario Region



Swift River Energy Limited

**Qualitative Flow Assessment
for Leakage Flows**

North Bala Hydro Project

327078.201 .07
Rev. 0
February 2010

Table of Contents

list of Tables
list of Figures

1. Introduction	1
2. Photographic Record of Various Dam Discharges	1
2.1 Details of Site Visit	1
2.1.1 Site Conditions	1
2.1.2 Plan for Photographic Documentation	1
2.1.3 Plan for Flow Manipulation	1
2.2 Results of Flow Assessment	2

Tables
Figures

List of Tables

Number	Title
	North Bala Dam Photo Series
2	South Bala Dam Photo Series

List of Figures

Number	Title
	Spring Qualitative Flow Assessment - Photo Locations at Bala North Dam
2	Spring Qualitative Flow Assessment - Photo Locations at Bala South Dam

1. Introduction

The proposed North Bala Small Hydro Project will result in a reduction of flows spilled through the North and South Bala dams. To qualitatively assess the impact that the reduced flows will have on the flow aesthetics downstream of each structure, a visual assessment of the flow conditions was carried out on June 11, 2009. Over the course of the day, the Ministry of Natural Resources (MNR) operations crew (5 staff) led by Mr. Len Hoare (Dam Operator), and Mr. Dave MacPherson (Water Management Technical Specialist), provided assistance in adjusting the dam log settings and corresponding flow releases. The qualitative/visual flow assessment was photographically documented by Ms. Joanne McHenry of Hatch Ltd. The intention of the detailed photographic record was to document the visible changes in downstream water levels, turbulence, and flow direction, with the changes in spill at each dam.

log manipulations were performed at the North Dam in the morning and the South Dam in the afternoon. Prior to the day of the site visit, MNR operations staff had jacked down the lower logs in each of the sluiceway bays at both dams to minimize the amount of leakage passing through the structures. All logs were in place at the start of the photographic series for both dams such that the only flows passing downstream of the structures were due to uncontrolled leakage which MNR staff estimated to be $2.0 \text{ m}^3/\text{s}$ per dam. logs were then successively removed from the sluiceway bays using the monorail hoist structures present at each dam to slowly increase the downstream flow. In between each log removal a series of photographs was taken at predetermined locations along the downstream channels.

2. Photographic Record of Various Dam Discharges

2.1 Details of Site Visit

2.1.1 *Site Conditions*

The weather conditions at the dams remained constant over the course of the day consisting primarily of sun, clear skies, and little to no wind. The average temperature for the day was approximately 20°C .

2.1.2 *Plan for Photographic Documentation*

The location of photographs taken downstream of the Bala North and South dams is presented in Figures 1 and 2, respectively. In both cases, a number of locations were pre-determined to provide multiple perspectives of the hydraulic conditions downstream of the dams.

2.1.3 *Plan for Flow Manipulation*

Mr. Hoare was the primary reference source for identifying flow rates through each structure throughout the day. The flows at the start of the photograph records were approximately $2 \text{ m}^3/\text{s}$ through each of the dams. It should be noted that although the lower logs in the bays had been jacked down and the upper logs pounded down as they were replaced, it was impossible for MNR staff to totally eliminate the gaps between the individual logs and thus eliminate the water leaking through the log stacks. As a result, for both dams, the estimated amount of water leaking through the log stacks equal to $2 \text{ m}^3/\text{s}$ was added to the amount of water estimated to be passing over the log stacks to arrive at a total downstream flow estimate. It is anticipated that the amount of stop log leakage could be reduced down to $1 \text{ m}^3/\text{s}$ if some of the especially worn or warped logs were replaced with new logs, and additional effort was directed at jacking down all of the stop logs in each of the sluiceway bays as opposed to only part of the stop log stacks.

Photographs were taken at the North Dam at the six locations identified in Figure 1, while logs were removed by MNR staff to reach a spill of more than 25 m³/s. At this point, the focus shifted to the South Dam where a second pair of MNR staff had been working to add logs to the sluiceway bays to close the structure to flows while the North Dam was being opened to flow (thereby maintaining the overall site discharge). Photographs of the south channel were taken at the 15 locations identified in Figure 2, while logs were removed by MNR staff from the South Dam to reach a sluiceway spill of more than 40 m³/s.

During the day, Mr. Hoare was consulted on the total amount of flow estimated to be passing through the dam at each log setting, and this information was recorded beside the photograph numbers.

2.2 Results of Flow Assessment

The photographs for the leakage only settings at the North and South Bala dams are presented in Tables 1 and 2 respectively, with the recorded log setting specified in the first column. The location 1 photograph (North Dam) and 1 and 2 photographs (South Dam) of the sluiceway bays are specifically intended to provide a visual appreciation of the total amount of water leaking through the logs.

Table 1 - North Bala Dam Photo Series (Bays Referenced **in** Downstream **Direction**, Left to Right)

Q = 2.0 cms	
Bay	Logs
1	8
2	8
3	8
4	8
5	7
6	7





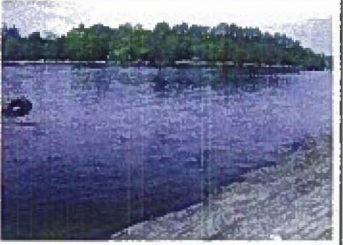



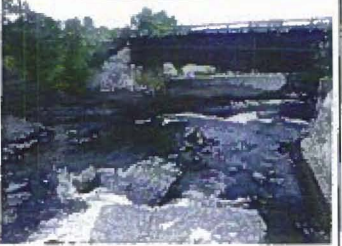












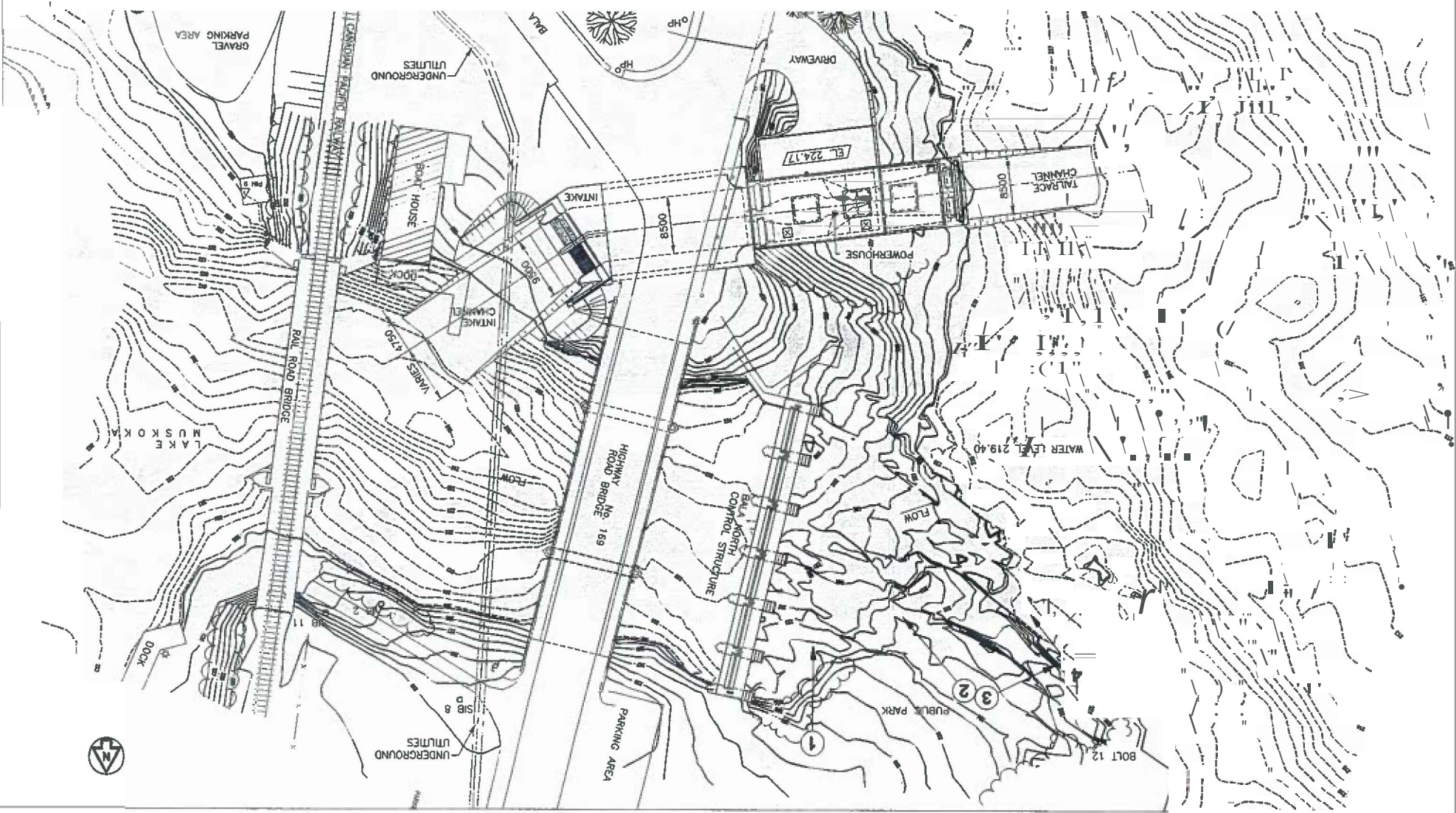
		
Location 1 - Photo 1112	Location 2 - Photo 1113	Location 3 - Photo 1114
		
Location 4 - Photo 1115	Location 5 - Photo 1116	Location 6 - Photo 1117

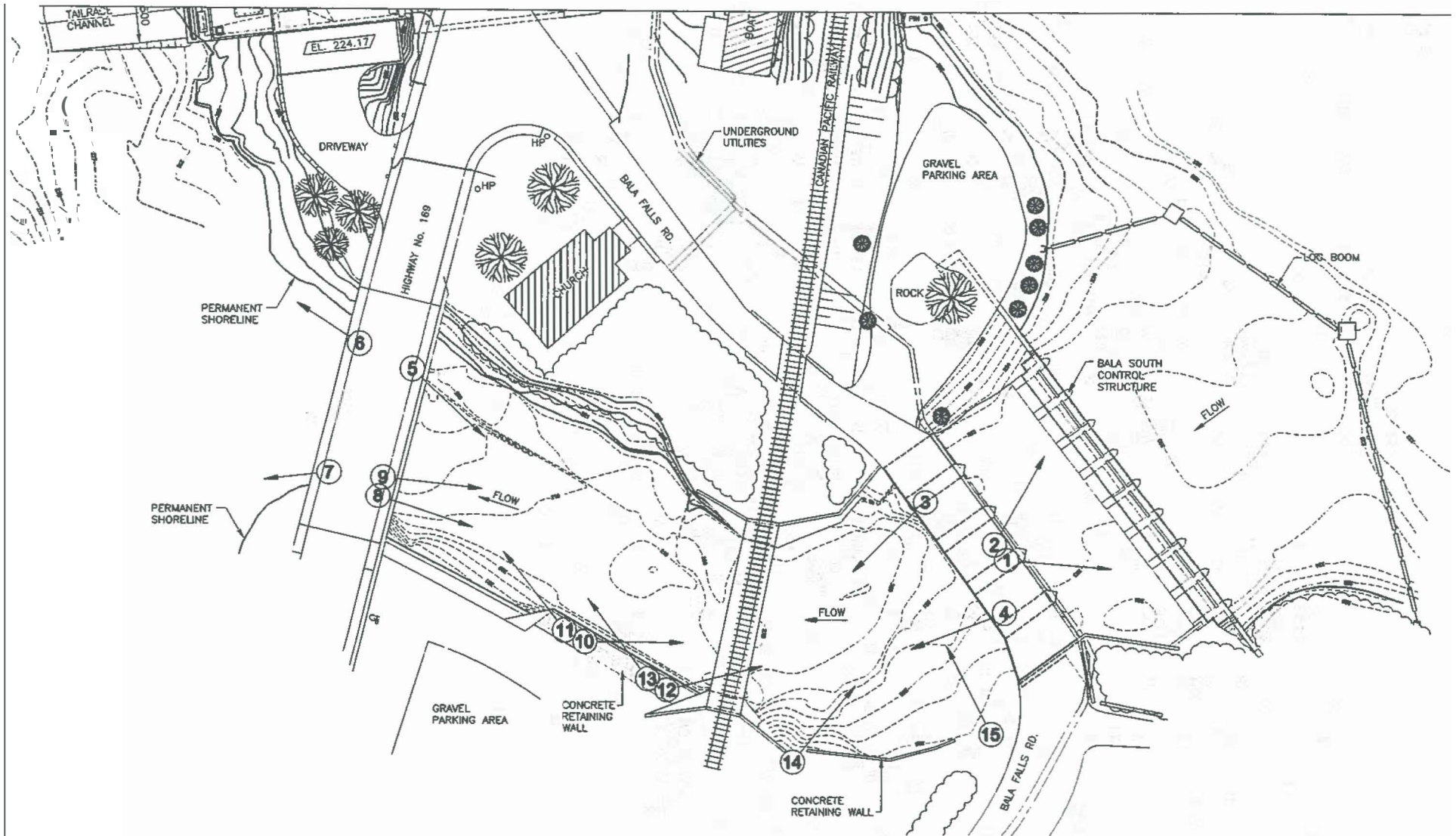
Table 2 - South Bala Dam Photo Series

Q=2.0 cms						
Bay	Logs					
1	8					
2	8	Location 1 - Photo 1179	Location 2 - Photo 1180	Location 3 - 1181	Location 4 - Photo 1182	Location 5 - Photo 1183
3	8					
4	8	Location 6 - Photo 1184	Location 7 - Photo 1185	Location 8 - Photo 1186	Location 9 - Photo 1187	Location 10 - Photo 1188
5	8					
6	8	Location 11 - Photo 1189	Location 12 - photo 1190	Location 13 - Photo 1191	Location 14 - Photo 2180	Location 15 - Photo 2178
7	8					
8	8					

ALL DIMENSIONS ARE IN METRES.
ALL ELEVATIONS ARE IN METRES.



Spring Qualitative EMO Assessment - Photo Locations at Site North wea
North Bala Small Hydro Project
SIN III River Energy Ltd.
Figure 1



10 20 30 40

ALL DIMENSIONS ARE IN MILLIMETRES.
ALL ELEVATIONS ARE IN METRES.

Figure 2
Swift River Energy Ltd.
North Bala Small Hydro Project
Spring Qualitative Aow Assessment - Photo Locations at Bala South Dam





Suite 500, 4342 Queen Street
Niagara Falls, Ontario, Canada L2E 7J7
Tel 905 374 5200. Fax 9053741157



$Q_{in} = 82.00 \text{ m}^3/\text{s}$
 $Q_{out} = 82.02 \text{ m}^3/\text{s}$

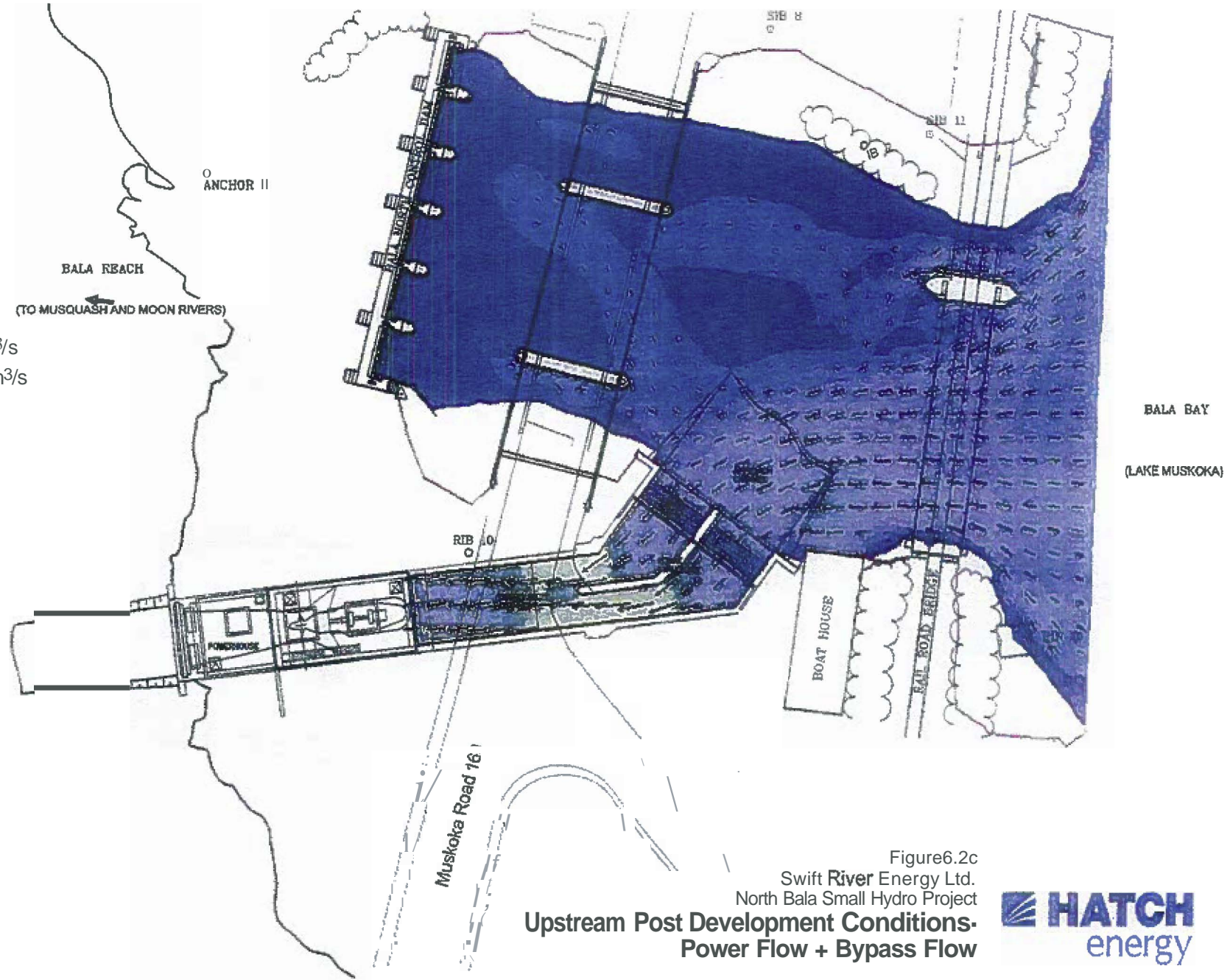
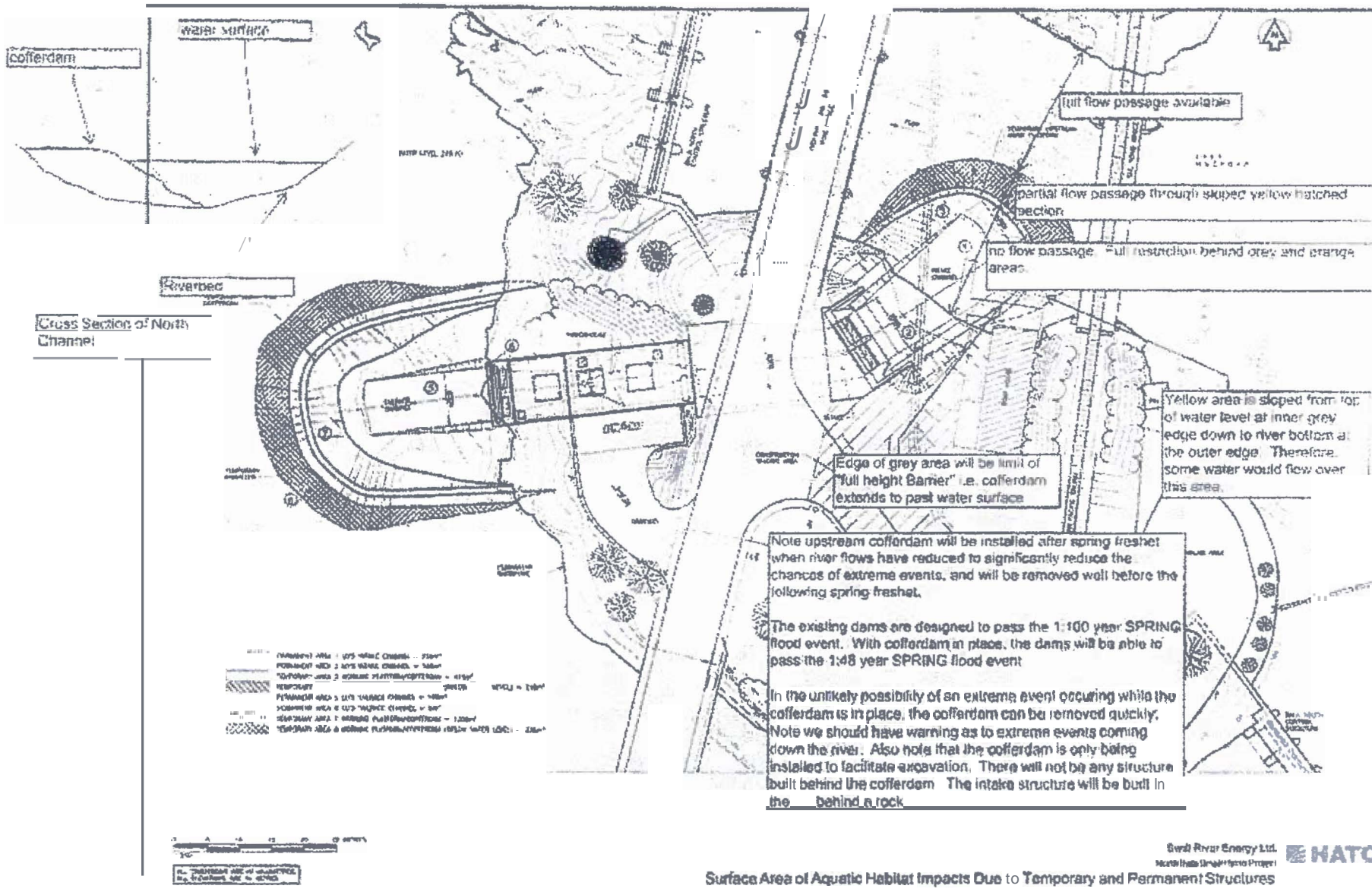


Figure 6.2c
 Swift River Energy Ltd.
 North Bala Small Hydro Project
**Upstream Post Development Conditions -
 Power Flow + Bypass Flow**





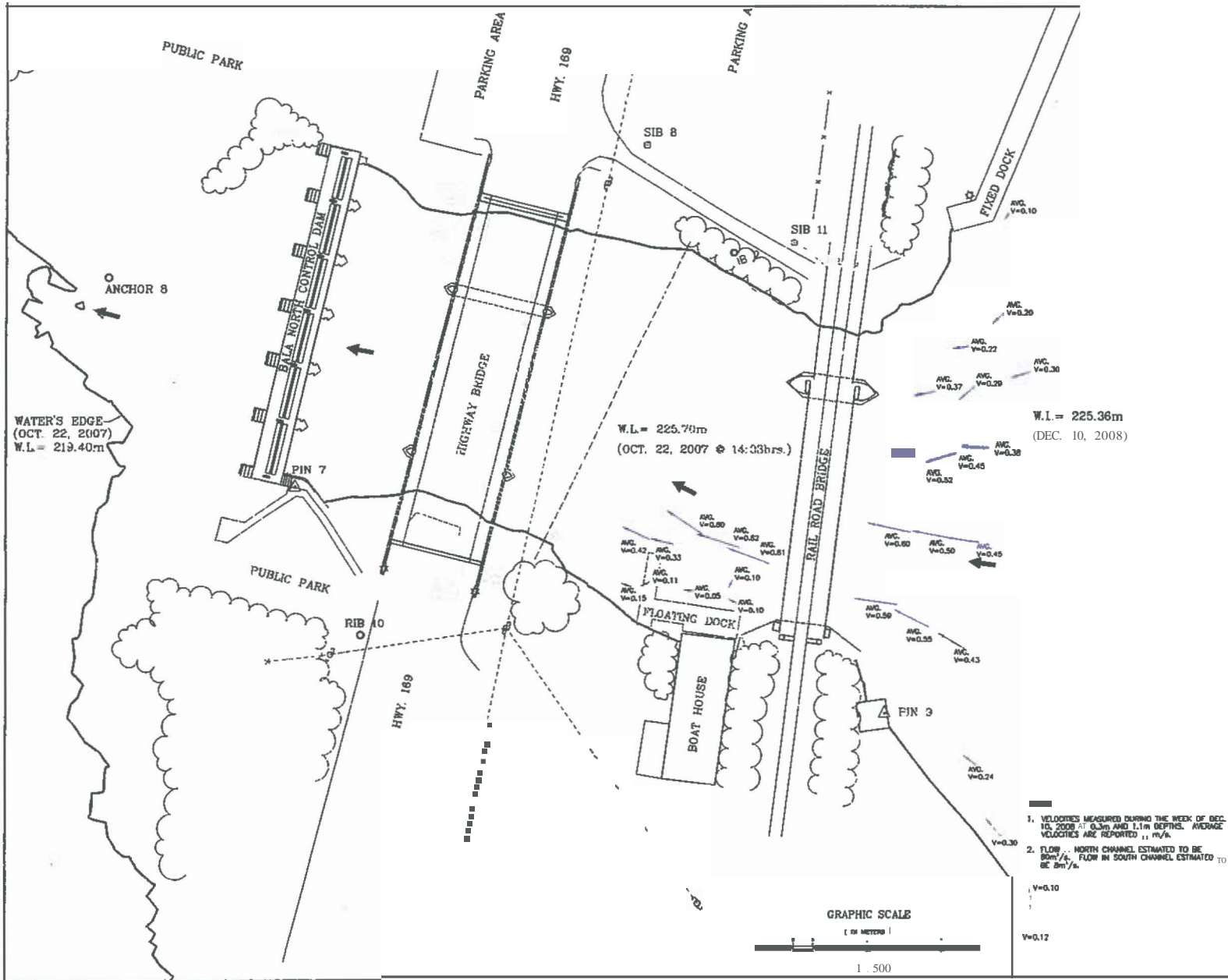
Surface Area of Aquatic Habitat Impacts Due to Temporary and Permanent Structures



Legend

- Areas to which access will remain restricted (by signage and floating safety booms) following construction.

Figure 6.5
 Swill River Energy Ltd.
 North Bala Small Hydro Project
 Areas Restricted During Operation



1. ALL DIMENSIONS ARE IN METERS UNLESS OTHERWISE NOTED
 2. CONTOUR INTERVAL - 0.25m
 3. SURVEY CONTROL COORDINATES AND ELEVATIONS ARE AS FOLLOWS (BASED ON UNADJUSTED NAD83 UTM ZONE 17 DATUM):

Point	Northing	Easting	Elevation	Description
6	4985407.660	609218.797	228.707	SIB
7	4985361.800	609171.070	225.914	PN
8	4985389.810	609147.388	227.942	ANCHOR
9	4985331.210	609281.194	228.738	PN
10	4985344.610	609280.869	228.335	PN
11	4985394.362	609235.810	227.039	SIB
12	4985413.340	609123.590	222.893	BOU?

VERTICAL DATUM DERIVES FROM THE FOLLOWING G.S. BENCHMARK DESCRIPTIONS:

BENCHMARK DESCRIPTIONS
 BM 145-89 ELEV. 724.766
 B.M.: BRIDGE CARRYING CNR RAILWAY OVER HWY. NO. 169; 0.4 KM SOUTH OF POST OFFICE; TABLET IS SET VERTICALLY IN EAST FACE OF WEST ABUTMENT, 3.35 M NORTH OF SOUTH-EAST CORNER AND 7 M WEST OF CENTRE LINE OF HWY. NO. 169.

Client: Swift River Energy Ltd.

North Bala Hydroelectric Project

Issued By:

1. VELOCITIES MEASURED DURING THE WEEK OF DEC. 10, 2008 AT 0.3m AND 1.1m DEPTHS. AVERAGE VELOCITIES ARE REPORTED IN m/s.
 2. FLOW IN NORTH CHANNEL ESTIMATED TO BE 30m³/s. FLOW IN SOUTH CHANNEL ESTIMATED TO BE 2m³/s.

GRAPHIC SCALE
 1:500

GLOBAL SURVEYING G.S.S.
 CONSULTING ENGINEERS AND SURVEYORS
 1000 SHEPPARD AVENUE EAST, SUITE 100, AURORA, ONTARIO M1T 3X7, CANADA
 TEL: (416) 290-8888 FAX: (416) 290-8889
 WWW.GSSURVEYING.COM

Drawing Title: Velocity Measurements at 0.3m & 1.1m North Channel
 Date: Dec-17-2008
 Drawing: as Noted
 Drawing No: IH-327078-SK1

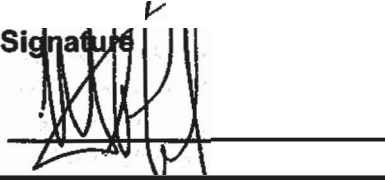


SPECIAL COUNCIL MEETING
AGENDA REPORT

TO: Mayor Ellis and Members of Council
MEETING DATE: August 11th, 2010
SUBJECT: NORTH BALA SMALL HYDRO PROJECT - ENVIRONMENTAL SCREENING / REVIEW

RECOMMENDATION:

1. That Council accept the August 11, 2010 North Bala Small Hydro Project- Environmental Screening Review Report prepared by the Chief Administrative Officer, and the recommendations contained therein; and
2. That the Chief Administrative Officer be directed to work with Swift River Energy Limited to obtain answers to the questions identified in the report and establish time frames in which these answers will be obtained; and
3. That the Chief Administrative Officer be directed to forward a copy of the Report and Councils concerns to the MOE Director of EAAB, responsible for the North Bala Small Hydro Project, requesting that the decision for the ESR Approval be deferred until answers to the municipalities concerns are addressed by SREL, most specifically those issues relating to public safety, the economic well being of the community and protection of persons and property.
4. That the Chief Administrative Office report back to Council at its September 15th meeting with a project status, pdate.

<u>APPROVALS:</u>	Date	Signature
Submitted By: Walt Schmid, CAO	<u>08/11/2010</u>	

ORIGIN: Government of Ontario, Swift River Energy Limited

BACKGROUND:

The Government of Ontario has released a number of potential hydro electric power generation sites for development throughout the province. The North Bala Dam project was offered for competitive release under the MNR Waterpower Site Release Policy. Swift River Energy Limited Partnership (SREL) was named as the Applicant of Record, giving SREL the leave to undertake an environmental screening report of the proposed project and to seek the requisite permits and approvals.

Over the last number of years the Council of the Corporation of the Township of Muskoka Lakes has passed the following resolutions relative to the proposed North Ball Dam project:

- 1) On January 5, 2005 Resolution *PG-7-5/01/05* was carried stating;

"the Township of Muskoka Lakes advise the MNR that any potential development at the Bala North Dam operated in accordance with the operating ranges of Lake Muskoka and Bala Reach as specified in the MRWMP;

and further that any potential facility also consider the need for scenic flows, public access for traditional uses and continuity of business in local area;

and further that a member of the Public Advisory Committee for the MRWMP be included on the review team for the proposed development."

- 2) On July 8, 2008 Resolution *C-29 08/07/08* was carried stating:

"BE IT RESOLVED THAT the Council of the Township of Muskoka Lakes, concurs "in principal" that the District Municipality of Muskoka consider the use of the District owned lands, located on the south side of the Bala Falls North Dam, by Swift River Energy, as part of a new hydroelectric generating facility, all subject to further public input and successful completion of the required Environmental Screening".

- 3) On October 21, 2008 Resolution *C-14-21/10/08* was carried stating:

"the council of the Township of Muskoka Lakes recommends to the Ministry of Natural Resources, and Swift River Energy that the environmental screening for the hydro project at the North Bala Falls include:

i the heritage value of the North Bala Falls and any related heritage impact the hydro generation station may have on the falls. And that

- ii the environmental screening process takes into consideration the potential impact that the proposed construction may have on Bala's economy, including its important winter economy by addressing safe snowmobile movement around the construction site, by investigating alternative water crossings of Bala Bay."

- 4) On November 24, 2009, Resolution *C-23-24/11/09* was carried stating:

Be it Resolved that the Report, "North Bala Small Hydro Project- Environmental Screening Review" be forwarded to Hatch Energy for response to the various questions outlined in the analysis section of the report, all in keeping with the Environmental Screening Process established by the Ministry of the Environment, and;

That the Township of Muskoka Lakes requests that the Environmental Screening Process Review Period be extended for an additional 90 days in order to address the municipalities concerns, and;

That Township staff report its findings back to Council at some future date.

SREL hired Hatch Energy to complete an Environmental Screening Report (ESR) which was completed in October 2009. The proposed project is subject to the Ontario Environmental Screening Process for Electricity Projects as well as the Canadian Environmental Assessment Act.

Public comment for the development of a 4.3 MW run of the river hydroelectric facility at the North Bala Dam were accepted until November 27th, 2009. The release of the October 2009 ESR provided council with its first opportunity to analysis the proposed project with all facets presented together in one document and provided new information not yet presented.

The Township of Muskoka Lakes submitted an elevation request to Hatch Energy and the MOE Director of the EMS in order to have municipal concerns addressed prior to any approval of the project.

A meeting was held with Swift River Energy Limited (SREL) representatives on January 22nd, 2010. The Township received a response to its "elevation request" on March 18th, 2010. A number of Township concerns were addressed in this correspondence however a number of outstanding issues continued to require answers. Accordingly numerous additional phone conversations have been held with SREL, as well as discussions with the Department of Fisheries and Oceans, Transport Canada, the Ministry of Natural Resources, the Township's solicitor, the Muskoka Lakes Chamber of Commerce and members of the community, in an effort to understand and address community concerns.

ANALYSIS:

Legal Opinion:

Many members of the public have asked *"Why doesn't the Township simply stop this project?"*

In staffs November 24, 2009 report, Council was advised that the Provincial Governments introduction of the Green Energy Act, and Green Economy Act would likely render certain municipal by-laws inoperative with respect to a municipality's ability to stop or change any designated renewable energy projects. It was likely that this would apply to the North Bala Dam Project.

To confirm the municipality's understanding of the new legislation, staff have obtained a formal legal opinion from its municipal solicitor, Burgar Rowe Professional Corporation. Burgar Rowe was asked to give an opinion whether the Township had the ability to control or stop the hydro project proposed at the North Bala Dam by SREL. A copy of the legal opinion is attached for Council's information, Appendix "A". In short the solicitor advises that:

1. "The net result of this (Green Energy Act Regulations) is to remove from the municipal level of government decision making into renewable energy projects. While proponents are required to engage in consultation with municipalities during the approval process, local authority to control or stop such projects has largely been removed and placed at the provincial level with limited rights of appeal to the ERT..... Under the Act, a "person resident" can appeal a renewable energy project only on grounds that it will cause "serious harm to human health" or "serious and irreversible harm to plant life, animal life or the natural environment". The harm must not only be serious, and in the case of plants, animals and the natural environment, irreversible, but the burden of proof rests with the appellants to prove that it will occur as a result of the proposed development"
2. *"In view of the overall intent of the legislation and the underlying government policy to promote and develop an economy based on sustainable renewable green energy, it is very unlikely that a municipality could prevent a green energy project from proceeding if it is likely to obtain EPA approval. The recommended approach is to participate actively in the consultative process by requesting detailed information and responses to objective questions at the earliest possible stage. It is also recommended to focus on mitigative*

factors and alternatives and alternatives that will attain the best solution local municipal interests with respect to a particular green energy proposal."

In short the Township of Muskoka Lakes does not have the authority to stop, or control the North Bala Small Hydro Project Environmental Screening Report (ESR) or project. This authority lies solely with the Province of Ontario.

Analysis of SREL Response to the Townships Elevation Request.

A meeting was held with SREL on January 22nd to clarify the Townships concerns. A written response to the Township's concerns was received March 19th 2010. Numerous phone conversations have since been held with SREL, in order to gain clarification to their response. Similar discussions have been held with Transport Canada, the Department of Fisheries and Oceans, the Ministry of Natural Resources, the Ministry of the Environment, the Ministry of Culture and others in an attempt to clarify various positions.

Even though the municipality may not have had "jurisdictional rights" in various areas of concern or may have had its jurisdictional rights removed as a result of the new Green Energy Act, all agencies were cooperative and open in their responses.

The following analysis provides a copy of the Township's questions of November 24, 2009, the SREL March 18th response to these questions (in italic), and staff comments to SREL response. The analysis is presented in the order provided by SREL.

Staff comments may include updated information provided by SREL or comments from various government ministries, as may be applicable. In some cases SREL has satisfactorily answered the Townships inquiries, in other cases only partially so, hence requiring further information or a position by SREL. A complete copy of the SREL correspondence is attached as Appendix "B".

Question 1a: Will the Bala North Dam be operated within the Lake Muskoka / Bala Reach Operating Ranges as set out in the MRWMP? The municipality seeks further clarification both from MNR and SREL as to the impact on Lake Muskoka water levels during high flows or the spring freshet, resulting from the establishment of the temporary cofferdam/working platform proposed to be constructed in the North Channel upstream of the powerhouse intake. Will the temporary cofferdam/working platform result in temporary higher water levels in Lake Muskoka? If so, to what extent?

SREL Response: *MNR will continue operations of the two dams to maintain the water levels on Lake Muskoka and the Bala Reach during the construction period as they do currently. Both the North and South Bala dams will remain operational during the construction period. The proposed upstream cofferdam will be located upstream of the road bridge leaving all of the North Dam spill bays available for passing flow. The South Dam will continue to have priority in terms of releasing flows from the Lake. Additional spill capacity is available at the North Dam once the maximum spill capacity at the South Dam is achieved.*

The construction of a temporary cofferdam will have little or no effect on water levels during high flows or the spring freshet. Any raising of the water level caused by the cofferdam can be easily compensated for by the removal of stop logs. Note that the upstream cofferdam will cover a relatively small area, as the actual intake structure will be constructed in the dry behind a rock plug. The cofferdam will only be required for some localized deepening of the intake channel. In order to limit any possible complications with spill operations, the construction schedule is planned to employ the upstream cofferdam outside of the spring freshet months of April and May.

Comment: SREL have advised that the coffer dam is not to be in place during the high flow spring freshet. MNR confirms that they will be monitoring the lake levels during the proposed construction, including the timeframe when the cofferdam is proposed to be in place in the North Channel. MNR will be responsible for the operation of both the North and South Bala Dams during the entire construction period. The onus of water level control will remain with the government agency which has historically been responsible for dam operations.

SREL response is acceptable and has been confirmed with the MNR.

Question 1b: Does the south dam have the capability to convey all the upstream flow? If not, to what extent does the south dam have the ability to relieve higher water levels on Lake Muskoka?

SREL Response: *The combined capacity of the north and south dams corresponds to the 1:100 year spring flood of 470 m³/s at a lake water level of 226.4 m. The south dam has the capacity to pass 252 m³/s and the north dam 218 m³/s. With the cofferdam in place, creating a restriction in the north channel, the reduced combined flood capacity of the north and south dams would be approximately 430 m³/s at a lake water level of 226.4 m (as estimated by our consultant Hatch). This reduced capacity corresponds approximately to the 1:48 year return period spring flood flows.*

It should be noted that based on historical records, the majority of the high spill requirements occur during the spring freshet period in April/May. In order to limit complications with spill operations, the construction schedule, as stated in Section 5.2.8.2 of our ESR is planned such that the upstream temporary cofferdam will be installed in the initial year of construction following the spring freshet (July) with the intention of removing it prior to the freshet the following year (February), thereby avoiding this period of high flow.

As is typical for these types of installation, the cofferdam will be constructed to withstand the 1 in 20 year spring flood event. The 1 in 20 year flood for this location is 362 m³/s which is less than the temporary combined capacity of the two dams.

Comment: Based on review of Figure 2.4, the average weekly historical flow (1982 to 1999) for the north and south dams during the high flow spring freshet have been recorded as 148cms and 108cms respectively for a total average weekly peak spring freshet flow of 256cms. The south dam if opened completely should convey 252cms, 4 cms less than the full capacity needed to convey the historical average weekly flow during the spring freshet. This leaves the entire capacity of the North Dam of 218 cms, less 4 cms, or 214cms, available for conveyance. With the cofferdam in place it is suggested by SREL that the North Channel capacity will be reduced by 40 cms or 178 cms, more than sufficient capacity to convey the average weekly historical flow. SREL advises that it will construct the cofferdam in July, after the spring freshet, when flows have been reduced, with the onset of drier summer weather. Average weekly historical flows (1982 to 1999) for July are 36 cms. The south dam would have more than ample capacity to convey average historical weekly flows during the summer and fall.

It should be noted however that heavy and prolonged rainstorm events especially when combined with quick spring snow melts could result in higher than normal flows, which may result in capacity concerns at the North Channel when the cofferdam is in place. SREL has suggested that the south dam and reduced capacity north dam could still convey 1:48 year spring freshet flow with the cofferdam in place if the cofferdam is installed as shown on Figure 5.2.

The 1 in 48 year melt is a significant high flow event. That being said, the Township has requested that it be provided with a cross-sectional area of the North Channel showing the greatest encroachment of the cofferdam into the waterway during construction. This information has been denied by SREL.

The Township requests that the information be provided to confirm the capacity reduction of the channel as a result of the cofferdam construction and to ensure that all agencies understand the extent to which the cofferdam will encroach into the North Channel.

Question 1c. Are there other constrictions upstream of the North Dam that has a greater effect on any backwater effects in Lake Muskoka created by the (cofferdam) working platform?

SREL Response: There are upstream constrictions that can create localized changes in water level at the dam. In addition, given the large size of Lake Muskoka also experiences wind effects that can change water levels. All of these issues are currently managed within the MRWMP and will continue to be during the construction period.

Comments: The MRWMP is monitored by the MNR and is outside of the municipality's jurisdiction and control. The MNR advise that they will be monitoring lake levels during the construction of the hydro generation facility to ensure that flooding that may cause property damage will be avoided or mitigated.

Question 1d. What measures are proposed to mitigate upstream flooding during construction should the introduction of the working platform create increased water levels on the Lake?

SREL ResDonse: Should a flood event occur that could not be passed by the combined South Dam and reduced capacity North Dam, SREL would have the cofferdam removed to allow the flood to pass. Given that the proposed work to be done behind the cofferdam will only be excavation work to deepen the channel, removing the cofferdam can be done quickly and easily, without any damage to our new construction. Note again, that the construction schedule will be designed to have this work completed outside of the spring freshet high flow period to minimize the chance of this scenario occurring.

Comment: SREL indicates that the cofferdam will be constructed in July, after the spring freshet and removed prior to the spring freshet of the following year. SREL also indicates that should the capacity of the dams be exceeded, the cofferdam can be removed, opening up the North Channel to its full width.

Staff note that recent mid winter thaws have created high water levels and high flows in the Muskoka River. To minimize the potential of flooding upstream of the Bala dams and associated property damage, it is recommended that the coffer dam be removed from the North Channel as soon as practically possible, creating a capacity flow in the North Channel at least as great as currently exists. This requirement should be incorporated into the construction contract for the works.

It is also recommended that a contingency plan be created by SREL and approved by MNR that would clearly identify how the cofferdam would be removed in the event of any high water event. This contingency plan should identify what equipment is required to remove the cofferdam, where the equipment can be acquired, the flow rate or water level the equipment should be brought on site in preparation for a cofferdam removal, and at what water level or flow rate the cofferdam be removed in order to protect upstream properties.

The Township has concerns that should the cofferdam be removed too late in the process, cofferdam rock debris could be washed downstream by high velocity flows, potentially damaging the existing north dam structure. We leave this consideration to the MNR operating authority to address.

Question 2: That any potential generating facility consider the need for scenic flows, public access for traditional uses and continuity of business in the local areas.

Question 2a. It is recommended that both dams be modelled in order to visually observe the proposed controlled water flows. Based on this observation, a better determination can be made to establish an acceptable aesthetic flow over the dams.

SREL Response: *SREL and its consultant Hatch, with the assistance of MNR, completed a Qualitative Flow Assessment for the project in June 2009. An abridged version of this report is provided attached for your review. It includes photos from various locations around both dams at a flow of 2 m³/s. Unfortunately we were not able to reduce the flow to 1 cms at that time due to some worn or warped logs. In order to reduce to 1 cms, we will likely require replacement of stoplogs. A video was also taken at south dam at a flow of approximately 2.5 cms. Unfortunately, MNR had already started removing some of the logs before we were able to film the flow at 2.0 cms. This 28 second video is available to Council on request.*

Comment: Section 6.2.2.1. of the Environmental Screening Report proposes that should the project be approved, the flow rates at the north and south dams would be reduced to a combined total flow rate of 2 cms. This flow rate is less than the flow rate currently experienced at either dam when only leakage occurs and no water tops over the dam.

SREL hired Hatch Engineering to undertake a Quantitative Flow Assessment at the North and South Dams on June 11, 2009, (Appendix "C"). Flows were reduced to an estimated 2.0 cms per dam and included stop log leakage only. This would mean a total 4 cms was being passed down stream through stop log leakage, twice the proposed volume as recommended in the ESR. SREL has provided a copy of photographs illustrating the 2.0 cms flow downstream of each of the dam structures. Hatch advised that the flow could be reduced to the proposed 1 cms per dam if warped stop logs were replaced.

Staff suggests that the proposed 1 cms per dam is totally unacceptable and will dramatically affect the aesthetics of the falls. Although 2.0 cms may be the typical existing stop log leakage rate at the North Dam, 1.0 cms would be a dramatic reduction in the historical flow and attraction of the falls.

Review of the June 11th photographs of the South Falls at a leakage rate of 2.0 cms indicates a flow that would by no means attract the attention of tourists and residents that visit the site each year. Reduction of the flow down to the proposed 1.0 cms, would create a nonexistent rocky feature and would have a dramatic negative effect on Bala's tourism draw and economy.

These reduced flow concerns have been raised with SREL on numerous occasions. SREL has indicated that the final decision on aesthetic flows over both the North and South Falls will ultimately be decided by the MNR and or the MOE. Staff recommends that the aesthetic flow volumes be included in the economic impact study as a negative impact of the project on the Town of Bala, and that mitigating measures, including appropriate flow volumes be established as part of the study that should include higher flow rates than currently proposed by SREL. Assistance of the MNR and MOE are requested in this matter. These recommendations should be included as a condition, should the project be approved by the province.

Question 2b: A joint review committee of MNR, SREL, and township representatives, perhaps a member of the MRWMP Public Advisory Committee are recommended.

SREL Response: *SREL would welcome meeting with the MNR, Township representatives, and MRWMP Standing Advisory Committee (SAC) (note the PAC is no longer in effect) (as deemed appropriate) to discuss this report and its findings at the Township's convenience. It is our understanding that the Township has already been in contact with the MRWMP SAC. SREL has*

discussed this possibility of the *Committee* with MNR, who has agreed... *be an observer of the "joint review committee" that you suggest and could provide any regulatory input as requested. They would not, however, be a member of the actual review committee.*

Note that it is our understanding that the final minimum flows to be provided over the North and South Falls *will be determined by the province (MOE and/or MNR).*

Comments: See comments to item 2 a.

Question 3: That a member of the MRWMP Public Advisory Committee be included on the review team for the proposed development.

Question 3a: Input from this important committee would be beneficial to the final analysis of the ESR. Additional time to seek MRWMP input is required.

SREL Response: *SREL has provided contact information for the MRWMP Standing Advisory Committee (SAC) Chair.*

It should be noted by the Township that SREL met with the MRWMP SAC on November 4, 2009 (during the 44 day public review/comment period for the ESR) at MNR's Bracebridge offices to announce the release of the ESR document and outline the highlights of the document with focus on the proposed addendum to the MRWMP. A question and answer period followed the brief presentation.

The Water Management Planning Section of the ESR is intended to be a stand-alone document. Upon the official order for amendment, this stand alone document will be reviewed by the SAC and a determination made by MNR in consultation with the committee. The WMP order follows the EA process.

Comments: Staff has spoken to the MRWMP representative, who has indicated that they prefer to stay within the bounds of their own mandate.

Question 4a. That the ESR addresses the heritage value of the North Bala Falls and any related heritage impact the hydro generating station may have on the falls. Ministry of Culture must sign a letter of clearance of the archaeological condition prior to any construction operations, earth moving or blasting takes place.

SREL Response: *SREL received a letter from the Ministry of Culture dated March 6, 2009, accepting the Stage 2 Archaeological Report for the Project that recommends complete clearance of the archaeological condition of the subject properly.*

Comment: The ultimate decision on the archaeological component of this project lies with the Ministry of Culture and is outside the jurisdiction and expertise of the Township. The Ministry has accepted the Stage 2 archaeological field assessment report prepared by Advance Archaeology on behalf of SREL

Question 4b. It is noted that the Historical document should be revised to clarify that ownership of the old Bala #1 Generating Station (Mill Street) resides with the Township of Muskoka Lakes.

SREL Response: *SREL acknowledges that while the Township of Muskoka Lakes owns the "building and property" that the Bala #1 Generating Station (Burgess GS), the actual "business" is owned and operated by Algonquin Power or its subsidiary, as are the rights to the water rights for the facility.*

Comment: Change to text acknowledged.

Question 4c. Council has received recent correspondence from the Muskoka Branch of the Architectural Conservancy of Ontario expressing concern that the project will negatively impact cultural qualities of the area. Additional time is required for further dialogue between all parties to fully understand their concerns.

SREL Response: *It is assumed that the Township has had sufficient time to dialogue with the Architectural Conservancy between the issuance of the elevation request and the writing of this response. No update has been received by SREL regarding this matter. SREL has, however, since contacted the President of the group (February 13, 2010) and offered to meet with its representatives. At the time of writing, however, the group has not been able to provide a date at which they are available to meet. It should be noted by the Township that this group is not a government regulatory body, but instead a possibly affected stakeholder and special interest group.*

Comment: The ultimate decision on the archaeological component of this project lies with the Ministry of Culture and is outside the jurisdiction and expertise of the Township. The Ministry has accepted the Stage 2 archaeological field assessment report prepared by Advance Archaeology on behalf of SREL.

Question 4d: Official Plan: It should be noted that sections of the Planning Act speak to Green Energy Development. Further discussions with SREL and Hatch Energy are required to fully understand the proposed concepts and proposed mitigating measures.

SREL Response: *As quoted on the Ministry of Municipal Affairs and Housing website "As a result of the new approvals framework established through the Green Energy Act (GEA) and related regulations, most renewable energy developments ... with some exceptions, are exempt from the provisions of the Planning Act." This exemption includes projects and facilities which generate electricity from renewable sources such as water (as is the case for the North Bala Falls Project). The effect of this exemption is that renewable energy projects are not affected by the following local planning instruments:*

- *Official plans*
- *Demolition control by-laws*
- *By-laws or orders passed under Part V of the Planning Act, including zoning, site plan, holding and interim control by-laws*
- *Development permit system by-laws*

*Also, the GEA has amended the Planning Act to allow leases up to 40 years for renewable energy projects without obtaining an **approval** under the Act.*

Policy 1.8.3 of the Provincial Policy Statement, 2005 directs that renewable energy systems shall be permitted across Ontario – in settlement areas, rural areas and prime agricultural areas - in accordance with provincial and federal requirements.

As stated in the ESR, SREL is proposing to mitigate impacts by:

- Ensuring access is maintained to both sides of the north and south falls*
- Professionally landscaphg the area to create a public park and river/sunset view lookout*
- Providing an upper lookout area adjacent to the road, that is handicap accessible*
- Incorporating interpretive signage into the site to describe the heritage of the area and its history with waterpower.*
- Assisting the Township with the constructing/installation of a year round snowmobile/pedestrian bridge between the Bala wharf and Diver's Point. The details of this are, however, still to be discussed.*

Comments: Staff has obtained a legal opinion from the Township's solicitor confirming the statements relating the GEA put forward by SREL, see Appendix "A".

Question Sa: That the ESR take into consideration the potential impact that the proposed construction may have on the Bala economy, including the winter economy, by addressing safe snowmobiling movement around the site, by investigating alternative water crossings of BaJa Bay.

It is recommended that an Economic Impact Study be conducted by SREL to illustrate to what sectors of the local economy may benefit and what sectors may be negatively impacted and what can be done to mitigate effects. The study should consider the creation of a local committee, comprised of SREL, the contractor and local representatives that would meet on a regular basis to identify "items of concern" prior to the issues becoming "problems". This committee should develop "proactive" business strategies in support of local businesses and retailer's i.e. roadside signage indicating "Bala Merchants are Open for Business During Construction":

SREL Response: SREL is currently considering the preparation of an Economic Impact Study, should we determine that it could provide useful information to ourselves and the community. We are currently contacting various economic consultants to discuss the terms of reference for such a study.

SREL will also look to the Township for assistance with the development of a Terms of Reference for such as report should we decide to proceed. SREL has also scheduled a meeting with the Chamber of Commerce Executive for March 25th to discuss strategies and suggestions they may have to minimize potential negative impacts to their respective businesses during the construction period. Since this meeting was set up, the C of C has posted a notice to all members requesting input for this meeting.

A large construction project such as the one SREL are proposing, can be expected to provide some construction opportunities in the area as Contractors generally try to hire local labours. It is estimated that 4,000 to 6,000 person hours will be required for this project.

In addition, we foresee direct business opportunities for various service and retail industries in Bala and Muskoka with respect to lodging, restaurants, building supplies, fuel etc., while the contractor work force is in town for the 12-18 month period. It is estimated that an average of 15 workers will be required on site during this period. These direct opportunities generally result in "trickle down" or indirect opportunities for other business' in town that may see more business because the neighbouring businesses are profiting.

In addition, this may be an opportunity for some of the seasonal businesses, in particular for lodgings, to make the investment to winterize their facilities if they have a known revenue stream for 12-18 months. Then after the construction is over, these facilities will be ready to accept snowmobiling or other winter customers in future years. It should be noted that SREL and the Township of Muskoka Lakes are in discussions about SREL assisting the Township to install a new year round snowmobile/pedestrian bridge from Diver's point to the Public Docks that would further enhance the snowmobile industry for the area.

SREL are also in the process of investigating the options for including a "buy local where possible" policy in its agreements with the project contractors.

Comment: SREL has committed to the undertaking of an Economic Impact Study. Staff have been involved in the development of a terms of reference for this study and as recently as August 9th received a revised copy to the study outline. The Township has asked and SREL has agreed to ensure that local business input is obtained, as well as the input of the Muskoka Lakes Chamber of Commerce. The Economic Impact Study is expected to be initiated in August, 2010.

Question 5b. SREL should ensure existing tourism events such as the Bala Bay Regatta, Cranberry Festival etc., are minimally affected by any construction interruption.

SREL Response: SREL is committed to working with the community to ensure that existing tourism events are minimally affected during the construction period. By completing all road work during the off-peak season, road interruptions should be minimized. Much of this could be attained by restricting or limiting construction activities during these events which generally occur on weekends. (Regatta-Civic holiday weekend, Cranberry Festival- Weekend after Thanksgiving, Craft and Gift Fair- 2 weekends: July and Oct, Antique and Nostalgia Show- 2 weekends July and October, Santa Clause Parade - weekend in November). Other events such as the summer market that occurs on Mondays, will have to be investigated with the Contractor and market organizer.

Comment: The SREL commitment is a positive one. If the project is approved, it is recommended that this commitment and specific ideas be incorporated into the Economic Impact Study and that these recommendations become part of the project approval.

Question 5c. It is recommended that SREL incorporate "buy local where possible" policies in its agreements with project contractors.

SREL Response: It is SREL's intention to discuss this option with the Chamber of Commerce at the March 25th meeting discussed above.

Comment: It is staff understanding that "buy local" was discussed between SREL and the MLCC. The SREL commitment is a positive one. If the project is approved, it is recommended that this commitment and specific ideas be incorporated into the Economic Impact Study and that they become part of the project approval.

Question 5d. Snowmobiling .ing construction: There may be safety issues with snowmobiles crossing the proposed temporary Bailey bridge if it has a steel deck.

SREL Response: *SREL's engineers have indicated that an alternative deck material is entirely possible and will be included in the construction specifications (possibly timber). Note that this Bailey bridge will only be in place for the first winter season. This will not be an issue for the second winter season.*

SREL has proposed a joint venture with the Municipality for the provision of a Four Season Bridge from Divers Point Park to the Bala Wharf. Further discussions with the Township and the local snowmobile club are required to address this issue.

SREL remains committed to assisting the Township with the installation of the above mentioned bridge, should the North Bala Falls Small Hydro Project proceed, and the installation/construction of the bridge coincides with the Hydro Project's construction period. Details of such a joint venture would need to be worked out in further discussions between the Township and SREL.

*It should be noted that if the hydro project **doesn't** proceed, this bridge would have to be significantly higher and more expensive than currently planned. Alternatively, the Township would need to obtain a navigational restriction to the North Channel from Transport Canada, or it would restrict access to the existing Park's Place Boat House and Marina (not currently zoned for marina use).*

Comment: Provision of a Bailey Bridge deck of alternative deck material suitable for snowmobiles is acceptable. Confirmation of this deck material with the District of Muskoka should be confirmed.

Construction of a four season bridge, from Divers Point to the Bala Wharf, capable of use by snowmobiles in the winter time and pedestrians in other seasons, was part of a long term economic plan proposed by the Chamber of Commerce some years ago. It is staffs understanding that construction of the generating station will not proceed in 2010 if approved. Further discussion regarding the proposed four season bridge should be discussed with the new municipal council.

Question 5 e: SREL proposes to close Bala Falls Road between the CPR overpass and MR#169 during construction. Township Council approval is required for this road closure.

SREL Response: *SREL will apply for approval of this road closure at the appropriate time in the construction process. Is it possible to get this approval at this point in time?*

Comment: Should the project be approved, road closure approvals should be made upon the development of a formal construction plan, in coordination with the District of Muskoka.

Question 6a: Section 5.2.1 of the ESR speaks to the possible crushing of rock on site. How will noise and dust emissions be monitored and controlled? During what time of year is the crushing proposed?

SREL Response: *Subsequent to the issuance of the ESR, SREL's engineers have concluded that no on-site crushing will be required.*

Comment: Agreed

Question 6b: The ESR should address the introduction of the upstream cofferdam/working platform in the North Channel and any potential backwater effect it may create. The Township requires further clarification and input from Hatch and MNR.

SREL Response: See Item 1.

Comment: Agreed. See staff comments item #1.

Question 6c: Muskoka Road #169 will be closed for two nights during construction as the intake channel is constructed under the roadway.

SREL Response: Road closures will be coordinated with the appropriate emergency services, so as to ensure that an option exists for emergency response during those closures. The conditions surrounding road closures will be agreed upon before permission is granted.

Comment: Agreed

Question 6d: A one lane Bailey bridge is proposed for 2 weeks prior to installation of a two lane Bailey bridge structure. Timing of the installation is requested to ensure proper coordination with other Bala events and activities.

SREL Response: Two 2-week lane reductions will be required before the installation of the two lane Bailey bridge structure to install it's the foundations. A second set of two 2-week lane reductions will be required upon removal of the bridge to remove the foundation work. All four weeks of lane reductions are planned to be conducted in the off-peak season (between the months of November and Victoria Day weekend). Notice of these lane reductions will be provided to the Municipality as well as the local businesses to ensure they don't coincide with any Bala events or activities. This timing will not be known until after a contractor is chosen.

Comment: Agreed

Question 6e: Impact on Balars Economy during Operation:

Will reduced flows over the North and South Falls have a negative effect on both existing and new spawning beds? Is 200 m2 of "manmade" spawning habitat sufficient to maintain the fishery?

SREL ResDonse: Fisheries and Oceans Canada (DFO) is the federal agency responsible for fish habitat, while the MNR is the provincial agency responsible for fish community and fisheries. A Fisheries Act Authorization is issued by DFO when the impacts to fish habitat are adequately mitigated. A mitigation plan has been proposed. A Fisheries Act Authorization application will be filed with the DFO. This typically follows the submission of the ESR. The DFO and MNR have both reviewed the

ESR and provided comments. *These comments are being addressed", SREL and its fisheries experts. Application for Fisheries Act Authorization will be filed thereafter. This authorization will be issued only upon satisfaction of the DFO conditions.*

Comment: The ultimate decision on the fisheries impact of this project lies with the federal Department of Fisheries and Oceans (DFO) and MNR and is outside the jurisdiction and expertise of the Township. Township staff has spoken to DFO staff. As of early August 2010, they continue to review the SREL application.

It is recommended that DFO approval be obtained prior to any ESR project approval by the MOE.

Question 6f: *Reduced flow over the North and South Dams: The Township needs to fully understand the visual impact on both falls and potential economic impact. Consideration should be given by the province, providing it flexibility to increase the minimum flows over the dams is the proposed flows seriously affect the aesthetics of the falls.*

SREL ResDonse: *Please see answer to Item 2 above. The final determination of the flows to be released over each of the dams will be determined by MNR. As stated in Item 5 a), SREL is currently considering **conducting** an Environmental Impact Study to investigate impacts from changes to the aesthetics of the falls and any possible **mitigation** measures.*

Comment: As per comment item #2, staffs observation is that the proposed 1 cms per dam is totally unacceptable and will dramatically affect the aesthetics of the falls, the tourism attraction that the falls creates and correspondingly will have a dramatic impact on the local Bala economy.

Although 2.0 cms may be the typical existing stop log leakage rate at the North Dam, sealing up to North Dam to 1.0 cms would be a dramatic reduction in the historical flow and attraction of the North Falls.

Review of the photographs of the South Falls at 2.0 ems on June 11th, 2009 indicates a flow that would in no means attract the attention of the tourists that visit the site every year. Further reduction of the leakage flow down to the proposed 1.0 ems, would create a nonexistent feature of only bare rocks dramatically effecting Bala's tourism draw.

Reducing the flows through and over the North and South Bala Dams will have an effect on tourism and should be considered in the economic impact study soon to be undertaken by SREL.

This reduced flow concern has been raised with SREL on numerous occasions. SREL has indicated that the final decision on aesthetic flows over both the North and South Falls will ultimately be decided by the MNR and or the MOE. Ministry representatives are asked to attend the falls and assist in establishing more reasonable flow volumes. There are many examples where aesthetic flows volumes have been included in project approvals, including the local expansion of High Falls in Bracebridge.

Staff recommends that the aesthetic flow volumes be included in the economic impact study as an impact of the project on the Town of Bala, and that mitigating measures be established as part of the economic impact study that should include higher flow rates than currently proposed by SREL.

Question 69: The Township wishes to participate in the proposed park design and discussions relating to ongoing park operations as well as the development of illustrative plaques in the Bala Falls area as recommended by Historica.

SREL ResDonse: SREL is committed to forming a Public Advisory Group to gather input on the park design and illustrative plaques among other things. A representative from the Township would be welcomed to the group when it is formed during the detailed design stage of the project (following the EA process).

Staff Comments: Agreed. The commitment to create a public advisory group should be included as an ESR commitment if the project is approved.

Question 6h: Section 9.4 should be revised to indicate that Burgess Generating Facility is owned by the Township and operated by Algonquin Power.

SREL ResDonse: SREL acknowledges that while the Township of Muskoka Lakes owns the "building and property" that the Bala #1 Generating Station (Burgess GS), the "business" is owned and operated by Algonquin Power or its subsidiary, as are the rights to the water rights for the facility.

Comments: Agreed. Ownership of the building and the property lay with the Township. The township at this point does not acknowledge ownership of the water rights of the Burgess #1 facility. An investigation of our records is ongoing.

Public Safety Issues

Question 6i: The ESR should confirm that the upstream and downstream booms are in fact the final locations.

SREL ResDonse: The final location of safety booms will be determined by Transport Canada (TC). TC has reviewed the ESR and provided written comments on the project as provided attached. These comments confirm that the proposed upstream and downstream boom locations are "reasonable" as shown in the ESR. An Application for Navigational Water Protection Act Authorization will be filed after final acceptance of the ESR. This authorization will be issued only upon satisfaction of the Te.

Comments: Staff has reviewed the Transport Canada correspondence of January 22, 2010 and has spoken to the Transport Canada official involved with the SREI application, regarding the placement of the upstream and downstream safety booms in the North Channel in early August, 2010. The Transport official has verbally indicated that he is satisfied with the placement of the safety boom provided by SREI, insofar as marine vessel safety is concerned both upstream and downstream of the generating facility.

Transport Canada expects that the upstream flow velocities in the immediate area of the Bala Wharf will not be affected insofar as vessel navigation is concerned. This includes canoes.

Transport Canada advises that the overall flow velocities downstream will actually decrease and the existing circular flow patterns will be removed making navigation of small vessels more predictable at a generator flow of 80+/- cms. For comparison sake it should be noted that a 80cms flow is one that could currently be expected in early March, the middle of April, mid November and mid December when there is little vessel traffic.

In regard to the "historic portage" which currently accesses the North Channel at Purk's Place, Transport Canada advises that **alternative** access points would be acceptable, including upstream at the Bala Wharf and Divers Point and downstream at the Portage Street Town Dock. .

Staff remains concerned that the flow velocities in the area of the Bala Wharf will remain higher than what could safely be compensated for by someone swimming off the Bala Wharf, or someone who may have fallen off the wharf, or out of a canoe or boat.

Staff has discussed with SREI, the possibility of creating a short breakwall, built at a 90 degree angle to the Wharf into Bala Bay. This breakwall would be located at the south end of the wharf, adjacent to the North Channel. The breakwall would extend to the lake bottom, cutting off any current into the North Channel from the area in front of the Wharf, in effect creating a stilling action for these waters. If built appropriately, the north side of the breakwall could create a safe canoe access point further away from the North Channel entrance, but close to the railway underpass and access to a crossing point of Muskoka Road #169. SREL has not committed to the construction of such a breakwall.

That further discussions be held with SREL to create the potential breakwall at the south end of the Bala Wharf as a means of improving public safety, and that this requirement be included as a condition of any ESR approval.

Question 6j: The Township requires further clarification as to the expected flows in and around the Bala Wharf under various flow conditions during different times of year. A comparison of existing flow velocities is also requested (water going over the existing North Dam). The Township requires that flow velocity figures be created for the area further out into Bala Bay to understand the potential impact on recreational swimming, canoeing and boating in the area and related safety issues.

SREL Response: The attached letter from TC confirms that while velocities may exceed 0.61 m/s at the intake, the velocity near the Bala Wharf will dissipate to 0.3 m/s during spring low and at full plant operation. TC further concludes that navigation will not be affected in the Bala Wharf area.

Comment: Staff has requested further information regarding flow velocities from SREL. In-Situ flow velocities were taken the week of December 10th, 2008 but were not included in the ESR. This information has now been provided to the municipality.

Drawing No. H-327078-SK1, illustrates North Channel velocities that range between 0.3 to 0.45 *m/s*, roughly in the area of the most upstream safety boom, under an actual flow rate of 80 cms at the North Dam and 0.6 *m/s* velocities in the area of the proposed intake channel. Decreased velocities existed closer to the Bala Wharf.

Again staff expresses concern regarding public water safety. If the project is approved, it is strongly recommended that an appropriately sized breakwall be created to shelter the waters in the area of the Bala Wharf and any North Channel currents. Although Figure 6.1 indicates that flow rates through the proposed plant will be greatly reduced during the summer months, this does not preclude swimming or the potential of an individual from falling into the water during the late spring or fall seasons when generating rates are higher, nor does it preclude the possibility of a wet summer season and higher than average flow rates being passed through the plant during the peak tourist season when inexperienced boaters may be in the area.

It is staffs understanding that as a result of fisheries concerns, the maximum velocity at the intake to the generating station will be 0.6 *m/s*. This would result in the velocities illustrated on Figure 6.2c. It is staffs understanding that Transport Canada has based their approval on these projections.

In reviewing Figures 5.2, 6.3 and other schematics in the ESR, it is shown that the intake structure to be 9.5m wide. Assuming a lake water level of 225 m (as discussed with SREL) and an intake channel invert elevation of 219 m, (Figure 5.2), a water depth of 6.0m would be created. Assuming an intake volume of 80 ems, the velocity at the intake channel would be 1.4 *mis*, not 0.6 *m/s*. At the maximum plant capacity of 96 ems, the intake velocity would increase to 1.68 ems. These increased velocities would have a significant impact on channel approach velocities at the outer safety booms and in the Bala Wharf area.

SREL has indicated that the actual invert elevation of the intake channel would likely be 217 m. Assuming a lake level elevation of 225 m, this invert change would create flow velocities of 1.05 *m/s* and 1.26 *m/s* at the intake structure, under generation volumes of 80 and 96 ems respectively. Again these velocities are above the 0.6 *m/s* required for the fisheries and would likely increase channel approach velocities at the safety booms.

It should also be noted that deepening the intake channel invert to 217 m would require further construction encroachment into the North Channel. If this were to be the case the temporary upstream cofferdam would likely extend further into the North Channel thereby reducing the capacity of the North Channel to convey flows during a high flow event. This may create flooding concerns upstream and potential property damage.

Increasing the width of the intake channel could decrease approach velocities. How wide the intake channel would have to be, and what effect a widened intake channel would have on encroachment into the North Channel and other project components should be investigated by SREL.

Staff's estimates are simple hand calculations but reflect a public safety concern relating to intake channel flow velocities. There is significant reason to ask for further clarification on the plant intake configuration and associated approach velocities prior to any ESR approval.

Question 6k: Clarification is required regarding the ability of the public to access the north shore of the North Falls. Will currents from the tailrace prohibit swimming in the area?

*SREL Response: As illustrated on the attached figure 6.5 from the ESR, there will be no restricted access to the north shore of the North Falls, downstream of the dam. TC's attached letter also states that while velocity at the outfall will increase from 0.6 to 1.3 *mis*, overall velocities will be reduced from 2.4 to 1.3 *m/s*. It also states that velocities will quickly dissipate to negligible. Therefore, velocities will not be significantly affected on the north shore.*

SREL, however, cautions the Township that swimming in this area is currently not advised. "Danger-Fast Water- Keep Away- No Swimming" signs are posted on the downstream face of the North Dam. SREL cannot, therefore, suggest that it would be safe to swim in the area either with, or without, the installation of our project.

TC's letter does, however, indicate that because the flow from the tailrace will be straight out from the plant and perpendicular to the shore, it will eliminate the swirling (circular) flow which presently occurs in that area during high flows. The removal or reduction of this swirling water should allow for easier handling of small vessels in the zone around the tailrace.

Comments: The north shore and the river bottom of the North Bala Falls are owned by the Provincial Government who has the jurisdiction to restrict or prohibit swimming downstream of the generating station. The MNR has not indicated whether there will be swimming restrictions or

prohibitions placed on swimming downstream of the North Falls or the Alerating station. MNR is requested to confirm any future swimming prohibitions expected.

Question 6l: Confirmation is required that public will have access to the south bank of the North Channel.

SREL Response: *As the attached Figure 6.5 from the ESR illustrates, there will be no restricted areas along the south bank of the North Channel, downstream of the North Dam. SREL is also proposing to construct a new set of stairs down this incline to facilitate access.*

Comment: Accepted. Access to the south bank between the MR #169 and the CPR Bridge will be limited by the introduction of a security fence. See comment Item 6n, to mitigate the industrial look of the security fence.

Question 6m: Section 6.3.6.1 requires clarification regarding the "portage" route between Lake Muskoka and the Moon River.

SREL Response: *Suggested alternative portage routes to replace the current upstream "take out" on the crown land adjacent to Purk's Place, include the flat area adjacent to the Bala Wharf (Bala Bay) and Diver's Point, during summer low flow conditions. "Put in" locations downstream include the Town Dock in Bala Reach. TC's attached letter confirms that these locations are appropriate.*

Comment: Staff suggest that a canoe launch be incorporated into a short breakwall at the south end of the Bala Wharf.

Question 6n: Section 6.3.6.1 indicates that access to the water in the area of the works will be discontinued. Clarification is requested as to how this restriction will be done.

SREL Response: *The attached Figure 6.5 clearly outlines the restricted area during the operations phase of the project. The water side of the tailrace restricted area will be enclosed by a floating safety boom and the land side will be blocked with a combination of landscaping features (vegetation and rocks) as well as architecturally designed handrail systems that meet the Ontario Building Code to keep children from falling through or people climbing on.*

The landside of the restricted area around the intake will be enclosed by fencing. All attempts will be made to ensure that this fencing is either visually appealing or masked by vegetation. The upstream end of this area will be blocked with a floating safety boom.

There are currently no plans to fence the area along the upstream north shore of the North Channel as this is Municipal land. SREL would be open to discussions with the Municipality should they wish to have SREL assist with the installation of fencing and/or landscaping to provide a physical barrier between the land and water. The water in this area is currently not easily accessible by land already because of the very dense shrubbery and rocks (see photo attached). SREL also do not have any current plans to erect any barrier on the CP Rail land where it meets the restricted zone unless requested by CP Rail. Again, the water in this area is not easily accessible from land as the rail bridge abutments and vegetation restrict access to a large extent (see photo attached).

Comment: Staff **recognizes** the need for safety fencing around the **intake** channel. That being said the Township requests input to the appearance of the fencing in order to minimize any negative aesthetic appearance of the fencing along the North Channel.

In addition to the above, it is believed that the CPR is the owner of the property along the north shore of the North Channel. The Township may have an easement over these lands. This ownership is currently being confirmed by the Township. That being said, the Township should not be burdened by the cost of new fencing along the north side of the North Channel, should fencing be required as a result flow regimes that create a public safety hazard created by the hydro generating station. The proponent should be responsible for these fencing costs. These conditions should be included in any ESR approval.

Question 60 : The Township requires clarification that the trail along the north side of the upstream North Channel will not be affected by the proposed construction or operations.

SREL Response: *No work is proposed to be completed on or near the north shore of the North Channel, upstream or downstream of the North Dam, with the exception of the downstream anchor for the relocated boom and the installation of the proposed year round pedestrian/snowmobile bridge should the Township wish to proceed. See above item (n) for possibilities regarding barriers to water in this area.*

Comment: Agreed

Question ap : SREL is requested to identify any restrictions or warnings that may be imposed on divers in and around the works.

SREL Response: *Divers will no longer be able to dive in the area shown in yellow on the attached Figure 6.5. Generally diving is not recommended near intakes or upstream of dams. It has been suggested by members of the public that divers currently use the area off Diver's point to commence dives. While this is not recommended either with or without our project, our project should not significantly change the existing strength of the currents in this area. Divers would, however, risk the chance of swimming below the two closely spaced safety booms. This is currently the situation with the adjacent south dam. Signage will be posted to notify people of the dangers of passing into the restricted zones beyond the safety booms, similar to what is present at the south dam.*

There would be a small restricted area within the tailrace boom downstream of the plant as shown on Figure 6.5. It is assumed that divers generally use the deeper areas downstream of the dams and should; therefore, they should not be significantly impacted by our project.

Comment: Should the project be approved, the recommended restricted areas shown in yellow on Figure 6.5 appear logical.

Future Employment and Economy

Question 69 : The Township requests that an Economic Impact Study be undertaken by an independent consultant to identify both the positive and negative attributes of the proposed development after the construction is completed and the plant is operational. The study should identify amongst other things, the effect on the seasonal and year round economy given the proposed changes to the North and South Falls. If negative concerns are raised the report should identify possible mitigating measures that could be taken.

SREL ResDonse: *As stated above, SREL are seriously considering undertaking an Economic Impact study to identify impacts to the local economy for the construction and operational periods and outline possible mitigation measures. SREL are proposing to hire Bracebridge Generation, a branch of Lakeland Holdings out ci Bracebridge, for the plant operations, maintenance and management. Bracebridge generation has indicated that they foresee hiring additional staff for this role.*

Comment: SREL has committed to undertake an economic impact study of the proposed project on the local Bala economy establishing both negative and positive effects of the project as well as recommending mitigation measures that may be undertaken by SREL, local businesses, the community and Township. The study is expected to start in August 2010.

It is recommended that the findings and recommendations of the study be completed prior to ESR approval to fully understand the impact on the Bala Community. To do otherwise would certainly be putting the cart before the horse for those most directly impacted by the proposed works.

Bonding and Securities

Question 6r :The Township inquires whether the Province requires a Bond or Security for the completion of the project.

SREL Response: *It is my understanding that the Provincial Government does not generally require such a thing for these types of projects. However, SREL are required to provide security to the Ontario Power Authority (OPA) under our FIT application and eventual FIT contract to ensure that we do proceed to Commercial Operation.*

In addition, both the original MNR site release program and the recent OPA FIT application required verification of SREL's financial capability to complete the project.

Comment: Requirements for bonding and securities for the SREL proposal lay solely with the provincial government who have jurisdiction over the project approval.

BURGAR ROWE

BARRISTERS · SOLICITORS · MEDIATORS · TRADEMARK AGENTS

BY EMAIL ONLY TO: wschmid@muskokalakes.ca

May 22, 2010

The Corporation of the Township of Muskoka Lakes
1 Baijey Street
P.O. Box 129
Port Carling, Ontario
POB 110

ATTENTION: Walt Schmid, CAO

RE: TOWNSHIP OF MUSKOKA LAKES AND SWIFT RIVER ENERGY LIMITED
NORTH BALA FALLS HYDRO PROJECT
OUR FILE NO. 45737

You have requested my opinion concerning the ability of the municipality to control or stop the proposed hydro project for the north Bala falls site being put forward by Swift River Energy Limited ("SREL"). In preparing this opinion, I have reviewed the correspondence that you have provided to me from SREL, the Ministry of Environment Environmental Assessment and Approvals Branch ("MOE") and all related enclosures. I have also reviewed the relevant legislation in addition to background materials and commentary available regarding the *Green Energy Act, 2009* and its impact on the planning approval process and municipal powers.

Green Energy Act, 2009

Context:

The *Green Energy and Green Economy Act, 2009* ("GEGEA") was introduced in February of 2009 and received Royal assent on May 14, 2009. The GEGEA enacted a stand-alone *Green Energy Act, 2009* ("GEA") and, at the same time, amended and repealed numerous other statutes including the *Planning Act*.

The context within which the legislation was introduced included the need for the Province to move away from electrical energy generation programs considered unsustainable and environmentally unacceptable. The province also saw the need, flowing from Ontario's "hybrid" electricity market comprised of both private and public interests, to encourage and capitalize on the development of local private initiatives to develop sustainable energy supplies serving local and provincial needs in an environmentally responsible manner ("green energy"). Developing renewable energy sources and fostering a conservation oriented

Barrie Offices
90 Mulcasler street Box 758 Borrie Ontorin 14M 4Y5 T 705 721 3377 F 705 721 4025

Brace bridge Offices
25 Ontario Street Bracebridge Ontario PIL 2A7 T 705 645 5211 F 705 645 8021

www.burgarowe.com



culture were seen as cornerstones of the Province's balanced plan to provide clean, reliable and affordable energy.

During its review of Ontario's energy system and its future needs, the Province had identified concerns among proponents of new green energy projects that the approval process was difficult and proponents faced many challenges or impediments due to the multiple processes involved including local public resistance to projects considered unacceptable in local areas. In order to achieve success in changing the electrical power generation system in Ontario and move toward a sustainable and green energy future, the Province saw a need to consolidate the approval process under one roof while still ensuring responsible environmental and planning oversight.

Through the enactment of the GEGEA and the GEA, the Province sought to streamline the environmental approval process for renewable energy generation projects and provide a service guarantee for proponents. The GEA, by creation of the Renewable Energy Facilitation Office, would provide a one-window contact and advocate for renewable energy applicants. The MOE was designated as the Ministry responsible for co-ordination, review and approval of renewable energy generation projects through a process identified as Renewal Energy Approval ("REA"). The REA was to provide a single new approval that integrated the environmental and health and safety matters traditionally dealt through the following requirements:

- Existing land use planning (municipal government level)
- Environmental assessment
- Environmental approvals
- Water takings

The REA process would deal with the following:

- Wind facilities
 - Over 3kw but less than 50kw (streamlined requirements)
 - Over 50kw (including setbacks)
 - All off-shore wind projects
- Solar facilities
 - Ground mounted over 10kw
 - No approval required for rooftop or wall mounted of any size
 - Prime agricultural land restrictions (within feed in tariff contract)
- Bio-energy facilities
 - Defined in the *Green Energy Act* as biomass, biogas or biofuel
 - Can be anaerobic digestion or thermal treatment facilities
 - No approval required for farm-based operations addressed under the *Nutrient Management Act*



Waterpower facilities (hydroelectric projects) did not require a REA. Waterpower hydro projects would continue to be processed through the existing Class EA regime for which MOEIMNR approvals would still apply.

Waterpower Facilities (history):

The Province decided to treat waterpower facilities differently than other proposals for green energy facilities due to the historical background and experience with approvals for hydroelectric generation projects in Ontario. Renewable energy in the form of water power has been regulated by the provincial government for over 150 years and hydro-electrical generation has been regulated for over 100 years.

While terminology and emphasis may have been different from time-to-time, the objectives of the regulatory schemes have remained the same: the promotion of the development of such energy sources, and hence Ontario's economy, while protecting the environment and those others with an interest in the resource. Most of Ontario's current hydroelectric structure was in place by the 1970's having been approved before the implementation of planning legislation giving local planning authorities significant autonomy and control over planning and development approvals.

Historically, the Ministry of Natural Resources ("MNR") had oversight for approvals relating to hydroelectric projects. Approvals for water power projects could be required under the *Lakes and Rivers Improvement Act*, the *Public Lands Act*, the *Fish and Wildlife Conservation Act*, 1997 and the *Conservation Authorities Act*. In addition, a variety of other provincial and federal statutes including the *Environmental Assessment Act* and the *Fisheries Act* could come into play in the review and approval process. The *Ministry of Natural Resources Act* allowed the Minister of Natural Resources to require proponents of hydroelectric energy projects to provide information prior to granting of approvals relating to development of a renewable energy project. A sophisticated review and approval process was developed and, throughout the late 1990's and 2000's, the MNR worked on refining the tools, policies, procedures and requirements including working with stakeholders and other Ministries to further refine the process.

Green Energy Act – A new direction:

In its efforts to streamline the approval process for renewal energy projects, the Province wanted to create a regime where one Ministry would have oversight and responsibility for the review and approval process. As stated earlier, the GEGEA amended many provincial statutes and enacted the GEA as a standalone piece of legislation by which the Ministry of Environment became the central processing body at the provincial level coordinating the comments and approvals received from all interested stakeholders.

The vehicle through which the MOE and MNR regulate the approvals for proposed hydroelectric energy developments is through the existing Class Environmental Assessment



process. The MOE and MNR approval requirements continue to apply to waterpower facilities proposed to generate renewable energy.

For waterpower projects, the Ministries elected to rely on the streamlining efforts set out in the Water Power Class Environmental Assess (2008). Projects having a name plate generation capacity of more than 200 MW are required to go through an Individual Environmental Assessment. Projects that fall below this 200 MW threshold and that are expected to an environmental impact that can be mitigated are subject to the Class EA process. The Water Power Class EA was designed to allow proponents of waterpower projects to coordinate the requirements under various government Ministries and pieces of legislation in a single process.

Municipal Impact – Changes to the Planning Act:

The GEA amended subsections 50(3) and 50(5) of the *Planning Act* and added section 62.0.1 and 62.0.2 to exempt renewable energy projects and renewable energy generation facilities from the direct regulation, control and approval processes available under the ambit of municipal planning authority.

Subsections 50(3) and 50(5) of the *Planning Act* were amended to include a new exception to the subdivision and part lot control restrictions in the Act to allow long term leases of between 21 and 50 years for the purposes of renewable energy generation facilities and renewable energy projects. The amendment was intentionally geared to accommodate the long term lease arrangements required to dovetail with the Province's feed-in tariff program ("FIT") that provided a standard offer contract to purchase power from waterpower generation projects for a term of 40 years in order to encourage the development of renewable energy sources.

In addition to the amendments to the subdivision and part lot control provisions of the *Planning Act*, the GEGEA added new a couple of new section to the Act. The addition of Section 62.0.1 to the *Planning Act* exempts renewable energy generation facilities and renewable energy projects from most municipal planning controls including zoning by-laws, site plan control by-laws and interim control by-laws. As well, the addition of Section 62.0.2 exempts such facilities and projects from compliance with official plans and provides that demolition control by-laws do not apply to a renewable energy undertaking.

Prior to the enactment of the GEA, proponents of renewable energy projects were required to comply with the official plan and zoning by-laws of a municipality or, alternatively, seek approval for a minor variance or an OP and zoning amendment as necessary. This is no longer the case. The enactment of the GEA and the resulting amendments to planning and environmental legislation have served to reduce somewhat the local public consultation process and have substantially restricted third party rights of appeal.

Municipalities are no longer approval authorities for renewable energy projects and have been reduced to commenting bodies only. Rights of appeal formerly available to the OMB



are now restricted in nature and are to the Environmental Review Tribunal ("ERT") under the *Environmental Protection Act*. While the OMB process enabled members of the local community, interested stakeholders and/or the municipality to initiate a hearing in which the prospective developer and all interested parties could advocate their positions, the EPA process is more restrictive.

Section 16 of O. Reg 359109 of the *Environmental Protection Act* requires a person who proposes to engage in a renewable energy project to hold at least two public meetings in the local municipality where it is to be developed. Section 18 of the Regulation requires that at least 90 days before the final of the two public meetings held for the purposes of Section 16, the proponent must distribute a consultation form to, among others, the clerk of each local municipality and upper-tier municipality in which the project location is situated.

Subsection 18(2) of the Regulation states that the consultation form is to be distributed for the purpose of consulting on matters relating to municipal or local infrastructure and servicing. Additional matters to which proponents are required to consult are set out in Table 1 of the Regulation a copy of which is enclosed. Table 1 outlines the supporting documents that must be enclosed in an application for a renewable energy approval under the *Environmental Protection Act*.

The net result of this is to remove from the municipal level of government decision making impediments to renewable energy projects. While proponents are required to engage in consultation with municipalities during the approval process, local authority to control or stop such projects has largely been removed and placed at the provincial level with limited appeal rights to the ERT.

ERT Appeals under the Green Energy Act

Schedule G of the GEA sets out an appeal process from renewable energy approvals and embodies the following key elements:

- 15 day timeframe for notices of appeal, unless varied by regulation
- No leave to appeal requirement
- Deemed approval if appeal not resolved within timeframe as set out in regulations
- High standard of proof with onus on appellant
- Appeal must be decided consistent with MOE policies issued under section 47.7 of the EPA in effect at the time the approval is issued

Under the Act, a "person resident" can appeal a renewable energy project only on grounds that it will cause "serious harm to human health" or "serious and irreversible harm to plant life, animal life or the natural environment". The harm must not only be serious, and in the case of plants, animals and the natural environment, irreversible, but the burden of proof rests with the appellant to prove that it *will* occur as a result of the proposed development.



While there is some case law that suggests the a softer "ecosystem" approach is the more appropriate standard to follow, the clear principles set out in the GEGEA and the policy objectives set by the government to move toward a green economy with green energy at its base appear to favour a fairly rigid adherence to the high burden of proof before the ERT. Successful appeals of approved energy projects are very likely to be quite limited.

Municipal Control and Regulation of Green Energy Projects - Is there any?

As a result of the significant curtailing of local municipal oversight on green energy proposals, several writers have attempted to look at what residual powers might be available to municipalities to control, regulate and perhaps even stop green energy proposals. The curtailment of municipal authority over green energy proposals under the *Planning Act* leaves little, if any, ability in the hands of local government to influence or prevent development on land within municipal boundaries apart from the consultative role under the EPA process.

Still, some legal writers have suggested that the broad and flexible powers given to municipalities under the *Municipal Act, 2001* may yet be utilized to regulate and restrict green energy initiatives. Relying on the decision in 114957 *Canada Ltee (Spratech, Société d'arrosage) v. Hudson (Town) (2001)*, 2 S.C.R. 241 ("Hudson"), it has been suggested that the by-law making powers afforded to municipalities under the *Municipal Act, 2001* might provide a mechanism to regulate or prohibit green energy projects including by-laws dealing with:

- Economic, social and environmental well-being of the municipality (Section 11, para. 5)
- Health, safety and well-being of persons (Section 11, para. 6)
- Protection of persons and property, including consumer protection (Section 11, para. 8)
- Structures, including fences and signs (Section 11, para. 10)
- Regulation of public nuisance (Section 128)
- Regulation of noise, odour, dust etc. (Section 129)

These suggestions are based, in part, upon in decision in cases such as Hudson where the Court have recognized that it was possible for a municipal regulatory by-law to co-exist with upper level government legislation where the municipal by-law did not conflict with the senior level government legislation. The Courts have been tending toward the adoption of a very restrictive view of what constitutes a conflict in these cases and appear to be efforts to allow the municipal legislation to co-exist with the senior government legislation.

The suggestions are also based, in part, on recent Court decisions that have taken a deferential approach to the interpretation of powers available to municipalities under new municipal legislation including the *Municipal Act, 2001*. Cases such as *Toronto (City) v. Goldist Properties Inc. (2003)*, 67 O.R. (3d) 441 have supported a deferential approach to municipal authority and taken a restrictive view on the issue of conflict where Provincial legislation permitted development of a property dealing with conversion of rental properties



to condominiums and the local municipal legislation contained such restrictive rules that the project was effectively prevented.

Having said this, there is no case law at this time that would assist in interpreting how a Court might approach the issue of conflict between a municipal by-law enacted to regulate, control or prevent a green energy project such as the Bala falls project proposed under the GEA. In my opinion, it would be very difficult to defend a municipal **by-law** enacted with the purpose of regulating or preventing a green energy project given that the Province has specifically built into the GEGEA legislation a packaged approval process that relegates municipalities to that of a consultative role only. The by-law would have to have been enacted in good faith and based upon some objective criteria relating to health, safety or environmental protection in my opinion.

In addition, unless there is clear evidence of serious and permanent harm to the environment (which, broadly defined, might include the impact on the local community), any adverse impacts are to be mitigated through measures imposed on the proponent through the EPA review process. To me, this is reinforced by subsection 5(2) of the GEA that allows a designated renewable energy project to proceed despite "any restriction imposed at law that would otherwise prevent or restrict the activity". Under subsection 5(3) of the GEA, municipal by-laws that purport to restrict a designated renewable energy project will be deemed to be inoperative to the extent that they would prevent the designated activity.

In view of this, it is my opinion that the Courts are more likely to favour the provincial legislation as providing a complete review and approval mechanism that substantially ousts the jurisdiction of municipalities over green energy proposals except in the consultative role and any appeal rights that might be exercised before the ERT under the EPA.

Moreover, it has been noted that Section 451.1 of the *Municipal Act, 2001* allows the Lieutenant Governor in Council to make regulations imposing limits and conditions on a municipality's exercise of its general power (but perhaps not its specific powers such as by-laws dealing with nuisance). While the regulation is time-limited to 18 months, it would allow time for the Province to overrule a municipal by-law that sought to regulate or prohibit a green energy project.

Conclusion

In view of the overall intent of the legislation and the underlying government policy to promote and develop an economy based on sustainable renewable green energy, it is very unlikely that a municipality could prevent a green energy project from proceeding if it is likely to obtain EPA approval. The recommended approach is to participate actively in the consultative process by requesting detailed information and responses to objective questions at the earliest possible stage. It is also recommended to focus on mitigative factors and alternatives that will attain the best solution local municipal interests with respect to a particular green energy proposal.



I note, as well, that the GEA has amended the *Environmental Bill of Rights* to impose an obligation on the Environmental Commissioner to provide an annual report to the speaker of the Legislative Assembly on the progress of activities in Ontario. Under subsection 58.1 (2)(c)(ii), the report must include an identification of any municipal by-laws that have created barriers to the development or implementation of measures to reduce the use or make more efficient use of electricity, natural gas, propane and transportation fuels.

I trust that this opinion will be of assistance to you. If you have further questions or concerns, please do not hesitate to contact me.

Yours very truly,

BURGAR ROWE
Professional Corporation

Per: James I. McIntosh
JIMjm
email: 111cinlosh@burgarowe.com
cc:

enc1:



March 18,2010

Township of Muskoka Lakes
P.O. Box 129
1 Bailey Street
Port Carling, ON
POB 110

Attn: Mr. Walt Schmid, P.Eng., CAO

Re: North Bala Falls Small Hydro Project – Response to Elevation Request Dated
November 27,2009

Dear Walt:

The following letter attempts to address those concerns outlined in your report issued to Council dated November 24,2009 that was attached to your elevation request dated November 27,2009 to our consultant Hatch Energy and the MOE Director of the EAAB. Many of the items were discussed with you previously during our meeting of January 22, 2010 and subsequent phone conversation on February 1, 2010.

Item 1. Will the Bala North Dam be operated within the Lake Muskoka / Bala Reach Operating Ranges as set out in the MRWMP?

- a. *The municipality seeks further clarification both from the MNR and SREL as to the impact on Lake Muskoka water levels during highflows or the spring freshet, resulting from the establishment of the temporary cofferdam/working platform proposed to be constructed in the North Channel upstream of the powerhouse intake. Will the temporary cofferdam/working platform result in temporary higher water levels in Lake Muskoka? If so, to what extent?*

MNR will continue operations of the two dams to maintain the water levels on Lake Muskoka and the Bala Reach during the construction period as they do currently. Both the North and South Bala dams will remain operational during the construction period. The proposed upstream cofferdam will be located upstream of the road bridge leaving all of the North Dam spill bays available for passing flow. The South Dam will continue to have priority in terms of releasing flows from the Lake. Additional spill capacity is available at the North Dam once the maximum spill capacity at the South Dam is achieved.

The construction of a temporary cofferdam will have little or no effect on water levels during high flows or the spring freshet. Any raising of the water level caused by the cofferdam can be easily compensated for by the removal of stop logs. Note that the upstream cofferdam will cover a relatively small area, as the actual intake structure will be constructed in the **dry** behind a rock

2300 Yonge Street
Suite 801, P.O. Box 2300
Toronto, ON M4P 1E4
Phone: 1-866-578-BALA (2252)

plug. The cofferdam will only be required for some localized deepening of the intake channel. In order to limit any possible complications with spill operations, the construction schedule is planned to employ the upstream cofferdam outside of the spring freshet months of April and May.

- b. *Does the south dam have the capability to convey all the upstream flow? If not, to what extent does the south dam have the ability to relieve higher water levels on Lake Muskoka?*

The combined capacity of the north and south dams corresponds to the 1:100 year spring flood of $470 \text{ m}^3/\text{s}$ at a lake water level of 226.4 m. The south dam has the capacity to pass $252 \text{ m}^3/\text{s}$ and the north dam $218 \text{ m}^3/\text{s}$. With the cofferdam in place, creating a restriction in the north channel, the reduced combined flood capacity of the north and south dams would be approximately $430 \text{ m}^3/\text{s}$ at a lake water level of 226.4 m (as estimated by our consultant Hatch). This reduced capacity corresponds approximately to the 1:48 year return period spring flood flows.

It should be noted that based on historical records, the majority of the high spill requirements occur during the spring freshet period in April/May. In order to limit complications with spill operations, the construction schedule, as stated in Section 5.2.8.2 of our ESR is planned such that the upstream temporary cofferdam will be installed in the initial year of construction following the spring freshet (July) with the intention of removing it prior to the freshet the following year (February), thereby avoiding this period of high flow.

As is typical for these types of installation, the cofferdam will be constructed to withstand the 1 in 20 year spring flood event. The 1 in 20 year flood for this location is $362 \text{ m}^3/\text{s}$ which is less than the temporary combined capacity of the two dams.

- c. *Are there other constrictions upstream of the North Dam that has a greater effect on any backwater effects in Lake Muskoka created by the working platform?*

There are upstream constrictions that can create localized changes in water level at the dam. In addition, given the large size of Lake Muskoka also experiences wind effects that can change water levels. All of these issues are currently managed within the MRWMP and will continue to be during the construction period.

- d. *What measures are proposed to mitigate upstream flooding during construction should the introduction of the working platform create increased water levels on the Lake?*

Should a flood event occur that could not be passed by the combined South Dam and reduced capacity North Dam, SREL would have the cofferdam removed to allow the flood to pass. Given that the proposed work to be done behind the cofferdam will only be excavation work to deepen the channel, removing the cofferdam can be done quickly and easily, without any damage to our new construction. Note again, that the construction schedule will be designed to have this work completed outside of the spring freshet high flow period to minimize the chance of this scenario occurring.

- Item 2. That any potential generating facility consider the need for scenic flows, public access for traditional uses and continuity of business in the local areas.
- a. *It is recommended that both dams be modelled in order to visually observe the proposed controlled waterflows. Based on this observation, a better determination can be made to establish an acceptable aesthetic flow over the dams.*

SREL and its consultant Hatch, with the assistance of MNR, completed a Qualitative Flow Assessment for the project in June 2009. An abridged version of this report is provided attached for your review. It includes photos from various locations around both dams at a flow of 2 m³/s. Unfortunately we were not able to reduce the flow to 1 ems at that time due to some worn or warped logs. In order to reduce to 1 ems, we will likely require replacement of stoplogs. A video was also taken at south dam at a flow of approximately 2.5 ems. Unfortunately, MNR had already started removing some of the logs before we were able to film the flow at 2.0 ems. This 28 second video is available to Council on request.

- b. *A joint review committee of MNR, SREL, and township representatives, perhaps a member of the MRWMP Public Advisory Committee are recommended.*

SREL would welcome meeting with the MNR, Township representatives, and MRWMP Standing Advisory Committee (SAC) (note the PAC is no longer in effect) (as deemed appropriate) to discuss this report and its findings at the Township's convenience. It is our understanding that the Township has already been in contact with the MRWMP SAC. SREL has discussed this possibility of this committee with MNR, who has agreed to be an observer of the "joint review committee" that you suggest and could provide any regulatory input as requested. They would not, however, be a member of the actual review committee.

Note that it is our understanding that the final minimum flows to be provided over the North and South Falls will be determined by the province (MOE and/or MNR).

- Item 3. That a member of the MRWMP Public Advisory Committee be included on the review team for the proposed development.
- a. *Input from this important committee would be beneficial to the final analysis of the ESR. Additional time to seek MRWMP input is required*

SREL has provided contact information for the MRWMP Standing Advisory Committee (SAC) Chair.

It should be noted by the Township that SREL met with the MRWMP SAC on November 4, 2009 (during the 44 day public review/comment period for the ESR) at MNR's Bracebridge offices to announce the release of the ESR document and outline the highlights of the document with focus on the proposed addendum to the MRWMP. A question and answer period followed the brief presentation.

The Water Management Planning Section of the ESR is intended to be a stand-alone document. Upon the official order for amendment, this stand alone document will be reviewed by the SAC and a determination made by MNR in consultation with the committee. The WMP order follows the EA process.

Item 4. That the ESR addresses the heritage value of the North Bala Falls and any related heritage impact the hydro generating station may have on the falls.

- a. *Ministry of Culture must sign a letter of clearance of the archaeological condition prior to any construction operations, earth moving or blasting takes place.*

SREL received a letter from the Ministry of Culture dated March 6, 2009, accepting the Stage 2 Archaeological Report for the Project that recommends complete clearance of the archaeological condition of the subject property. A copy of this letter is attached.

- b. *It is noted that the Historical document should be revised to clarify that ownership of the old Bala #1 Generating Station (Mill Street) resides with the Township of Muskoka Lakes.*

SREL acknowledges that while the Township of Muskoka Lakes owns the "building and property" that the Bala #1 Generating Station (Burgess GS), the actual "business" is owned and operated by Algonquin Power or its subsidiary, as are the rights to the water rights for the facility.

- c. *Council has received recent correspondence from the Muskoka Branch of the Architectural Conservancy of Ontario expressing concern that the project will negatively impact cultural qualities of the area. Additional time is required for further dialogue between all parties to fully understand their concerns.*

It is assumed that the Township has had sufficient time to dialogue with the Architectural Conservancy between the issuance of the elevation request and the writing of this response. No update has been received by SREL regarding this matter. SREL has, however, since contacted the President of the group (February 13, 2010) and offered to meet with its representatives. At the time of writing, however, the group has not been able to provide a date at which they are available to meet. It should be noted by the Township that this group is not a government regulatory body, but instead a possibly affected stakeholder and special interest group.

- d. *Official Plan: It should be noted that sections of the Planning Act speak to Green Energy Development. Further discussions with SREL and Hatch Energy are required to fully understand the proposed concepts and proposed mitigating measures.*

As quoted on the Ministry of Municipal Affairs and Housing website "As a result of the new approvals framework established through the Green Energy Act (GEA) and related regulations, most renewable energy developments ... with some exceptions, are exempt from the provisions of the Planning Act." This exemption includes projects and facilities which generate electricity from renewable sources such as water (as is the case for the North Bala Falls Project). The effect of this exemption is that renewable energy projects are not affected by the following local planning instruments:

- Official plans
- Demolition control by-laws
- By-laws or orders passed under Part V of the Planning Act, including zoning, site plan, holding and interim control by-laws
- Development permit system by-laws

Also, the GEA has amended the Planning Act to allow leases up to 40 years for renewable energy projects without obtaining an approval under the Act.

Policy 1.8.3 of the Provincial Policy Statement, 2005 directs that renewable energy systems shall be permitted across Ontario - in settlement areas, rural areas and prime agricultural areas - in accordance with provincial and federal requirements.

As stated in the ESR, SREL is proposing to mitigate impacts by:

- Ensuring access is maintained to both sides of the north and south falls
- Professionally landscaping the area to create a public park and river/sunset view lookout
- Providing an upper lookout area adjacent to the road, that is handicap accessible
- Incorporating interpretive signage into the site to describe the heritage of the area and its history with waterpower.
- Assisting the Township with the constructing/installation of a year round snowmobile/pedestrian bridge between the Bala wharf and Diver's Point. The details of this are, however, still to be discussed.

Item 5. That the ESR take into consideration the potential impact that the proposed construction may have on the BaJa economy, including the winter economy, by addressing safe snowmobiling movement around the site, by investigating alternative water crossings of BaJa Bay.

Impact on BaJa's Economy During Construction:

- a. It is recommended that an Economic Impact Study be conducted by SREr to illustrate to what sectors of the local economy may benefit and what sectors may be negatively impacted and what can be done to mitigate effects. The study should consider the creation of a local committee, comprised of SREL, the contractor and local representatives that would meet on a regular basis to identify "items of concern" prior to the issues becoming "problems". This committee should develop "proactive" business strategies in support of local businesses and retailers i.e. roadside signage indicating "Bala Merchants are Open for Business During Construction".*

SREL is currently considering the preparation of an Economic Impact Study, should we determine that it could provide useful information to ourselves and the community. We are currently contacting various economic consultants to discuss the terms of reference for such a study.

SREL will also look to the Township for assistance with the development of a Terms of Reference for such as report should we decide to proceed. SREL has also scheduled a meeting with the Chamber of Commerce Executive for March 25th to discuss strategies and suggestions they may have to minimize potential negative impacts to their respective businesses during the construction period. Since this meeting was set up, the C of C has posted a notice to all members requesting input for this meeting.

A large construction project such as the one SREL are proposing, can be expected to provide some construction opportunities in the area as Contractors generally try to hire local labours. It is estimated that 4,000 to 6,000 person hours will be required for this project.

In addition, we foresee direct business opportunities for various service and retail industries in Bala and Muskoka with respect to lodging, restaurants, building supplies, fuel etc., while the contractor work force is in town for the 12-18 month period. It is estimated that an average of 15

Township of Muskoka Lakes
March 18, 2010

workers will be required on site during this period. These direct opportunities generally result in "trickle down" or indirect opportunities for other business' in town that may see more business because the neighbouring businesses are profiting.

In addition, this may be an opportunity for some of the seasonal businesses, in particular for lodgings, to make the investment to winterize their facilities if they have a known revenue stream for 12-18 months. Then after the construction is over, these facilities will be ready to accept snowmobiling or other winter customers in future years. It should be noted that SREL and the Township of Muskoka Lakes are in discussions about SREL assisting the Township to install a new year round snowmobile/pedestrian bridge from Diver's point to the Public Docks that would further enhance the snowmobile industry for the area.

SREL are also in the process of investigating the options for including a "buy local where possible" policy in its agreements with the project contractors.

- b. SREL should ensure existing tourism events such as the Bala Bay Regatta, Cranberry Festival etc. Are minimally effected by any construction interruption.*

SREL is committed to working with the community to ensure that existing tourism events are minimally affected during the construction period. By completing all road work during the off-peak season, road interruptions should be minimized. Much of this could be attained by restricting or limiting construction activities during these events which generally occur on weekends. (Regatta - Civic holiday weekend, Cranberry Festival- Weekend after Thanksgiving, Craft and Gift Fair - 2 weekends: July and Oct, Antique and Nostalgia Show - 2 weekends July and October, Santa Clause Parade - weekend in November). Other events such as the summer market that occurs on Mondays, wiJI have to be investigated with the Contractor and market organizer.

- c. It is recommended that SREL incorporate "buy local where possible" policies in its agreements with project contractors.*

It is SREL's intention to discuss this option with the Chamber of Commerce at the March 25th meeting discussed above.

- d. Snowmobiling during construction: There may be safety issues with snowmobiles crossing the proposed temporary Bailey bridge if it has a steel deck.*

SREL's engineers have indicated that an alternative deck material is entirely possible and will be included in the construction specifications (possibly timber). Note that this Bailey bridge will only be in place for the first winter season. This will not be an issue for the second winter season.

- e. SREL has proposed a joint venture with the Municipality for the provision of a Four Season Bridge from Divers Point Park to the Bala Wharf Further discussions with the Township and the local snowmobile club are required to address this issue.*

SREL remains committed to assisting the Township with the installation of the above mentioned bridge, should the North Bala Falls Small Hydro Project proceed, and the installation/construction of the bridge coincides with the Hydro Project's construction period. Details of such a joint venture would need to be worked out in further discussions between the Township and SREL.

It should be noted that if the hydro project doesn't proceed, this bridge would have to be significantly higher and more expensive than currently planned. Alternatively, the Township would need to obtain a navigational restriction to the North Channel from Transport Canada, or it would restrict access to the existing Purk's Place Boat House and Marina (not currently zoned for marina use).

- f SREL proposes to close Bala Falls Road between the CPR overpass and MR#169 during construction. Township Council approval is required for this road closure.*

SREL will apply for approval of this road closure at the appropriate time in the construction process. Is it possible to get this approval at this point in time?

- a. Section 5.2.1 of the ESR speaks to the possible crushing of rock on site. How will noise and dust emissions be monitored and controlled? During what time of year is the crushing proposed?*

Subsequent to the issuance of the ESR, SREL's engineers have concluded that no on-site crushing will be required.

- b. The ESR should address the introduction of the upstream cofferdam/working platform in the North Channel and any potential backwater effects it may have. The Township requires further clarification and input from Hatch and MNR.*

See Item 1.

- c. Muskoka Road #169 will be closed for two nights during construction as the intake channel is constructed under the roadway.*

Road closures will be coordinated with the appropriate emergency services, so as to ensure that an option exists for emergency response during those closures. The conditions surrounding road closures will be agreed upon before permission is granted.

- d. A one lane Bailey bridge is proposed for 2 weeks prior to installation of a two lane Bailey bridge structure. Timing of the installation is requested to ensure proper coordination with other Bala events and activities.*

Two 2-week lane reductions will be required before the installation of the **two** lane Bailey bridge structure to install its foundations. A second set of two 2-week lane reductions will be required upon removal of the bridge to remove the foundation work. All four weeks of lane reductions are planned to be conducted in the off-peak season (between the months of November and Victoria Day weekend). Notice of these lane reductions will be provided to the Municipality as well as the local businesses to ensure they don't coincide with any Bala events or activities. This timing will not be known until after a contractor is chosen.

Impact on Bala's Economy during Operation:

- e. Will reduced flows over the North and South Falls have a negative effect on both existing and new spawning beds? Is 200 m² of "manmade" spawning habitat **sufficient** to maintain the fishery?*

Fisheries and Oceans Canada (DFO) is the federal agency responsible for fish habitat, while the MNR is the provincial agency responsible for fish community and fisheries. A Fisheries Act Authorization is issued by DFO when the impacts to fish habitat are adequately mitigated. A mitigation plan has been proposed. A Fisheries Act Authorization application will be filed with the DFO. This typically follows the submission of the ESR. The DFO and MNR have both reviewed the ESR and provided comments. These comments are being addressed by SREL and its fisheries experts. Application for Fisheries Act Authorization will be filed thereafter. This authorization will be issued only upon satisfaction of the DFO conditions.

- f. *Reduced flow over the North and South Dams: The Township needs to fully understand the visual impact on both falls and potential economic impact. Consideration should be given by the province, providing it flexibility to increase the minimum flows over the dams is the proposed flows seriously affect the aesthetics of the falls.*

Please see answer to Item 2 above. The final determination of the flows to be released over each of the dams will be determined by MNR. As stated in Item 5 a), SREL is currently considering conducting an Environmental Impact Study to investigate impacts from changes to the aesthetics of the falls and any possible mitigation measures.

- g. *The township wishes to participate in the proposed park design and discussions relating to ongoing park operations as well as the development of illustrative plaques in the Bala Falls area as recommended by Historica.*

SREL is committed to forming a Public Advisory Group to gather input on the park design and illustrative plaques among other things. A representative from the Township would be welcomed to the group when it is formed during the detailed design stage of the project (following the EA process).

- h. *Section 9.4 should be revised to indicate that Burgess Generating Facility is owned by the Township and operated by Algonquin Power.*

SREL acknowledges that while the Township of Muskoka Lakes owns the "building and property" that the Bala #1 Generating Station (Burgess GS), the "business" is owned and operated by Algonquin Power or its subsidiary, as are the rights to the water rights for the facility.

Public Safety

- i. *The ESR should confirm that the upstream and downstream booms are in fact the final locations.*

The final location of safety booms will be determined by Transport Canada (TC). TC has reviewed the ESR and provided written comments on the project as provided attached. These comments confirm that the proposed upstream and downstream boom locations are "reasonable" as shown in the ESR. An Application for Navigational Water Protection Act Authorization will be filed after final acceptance of the ESR. This authorization will be issued only upon satisfaction of the TC.

- j. *The Township requires further clarification as to the expected flows in and around the Bala Wharf under various flow conditions during different times of year. A comparison of existing flow velocities is also requested (water going over the existing*

March 18, 2010

North Dam). The Township requires that flow velocity figures be created for the area further out into Bala Bay to understand the potential impact on recreational swimming, canoeing and boating in the area and related safety issues.

The attached letter from TC confirms that while velocities may exceed 0.61 m/s at the intake, the velocity near the Bala Wharf will dissipate to 0.1 m/s during spring low and at full plant operation. TC further concludes that navigation will not be affected in the Bala Wharf area.

- k. Clarification is required regarding the **ability** of the public to access the north shore of the North Falls. Will currents from the tailrace prohibit swimming in the area?*

As illustrated on the attached figure 6.5 from the ESR, there will be no restricted access to the north shore of the North Falls, downstream of the dam. TC's attached letter also states that while velocity at the outfall will increase from 0.6 to 1.3 m/s, overall velocities will be reduced from 2.4 to 1.3 m/s. It also states that velocities will quickly dissipate to negligible. Therefore, velocities will not be significantly affected on the north shore.

SREL, however, cautions the Township that swimming in this area is currently not advised. "Danger - Fast Water - Keep Away - No Swimming" signs are posted on the downstream face of the North Dam. SREL cannot, therefore, suggest that it would be safe to swim in the area either with, or without, the installation of our project.

TC's letter does, however, indicate that because the flow from the tailrace will be straight out from the plant and perpendicular to the shore, it will eliminate the swirling (circular) flow which presently occurs in that area during high flows. The removal or reduction of this swirling water should allow for easier handling of small vessels in the zone around the tailrace.

- l. Confirmation is required that public will have access to the south bank of the North Channel.*

As the attached Figure 6.5 from the ESR illustrates, there will be no restricted areas along the south bank of the North Channel, downstream of the North Dam. SREL is also proposing to construct a new set of stairs down this incline to facilitate access.

- m. Section 6.3.6.1 requires clarification regarding the "portage" route between Lake Muskoka and the Moon River.*

Suggested alternative portage routes to replace the current upstream "take out" on the crown land adjacent to Purk's Place, include the flat area adjacent to the Bala Wharf (Bala Bay) and Diver's Point, during summer low flow conditions. "Put in" locations downstream include the Town Dock in Bala Reach. TC's attached letter confirms that these locations are appropriate.

- 11. Section 6.3.6.1 indicates that access to the water in the area of the works **will** be discontinued. Clarification is requested as to how this restriction will be done.*

The attached Figure 6.5 clearly outlines the restricted area during the operations phase of the project. The water side of the tailrace restricted area will be enclosed by a floating safety boom and the land side will be blocked with a combination of landscaping features (vegetation and rocks) as well as architecturally designed handrail systems that meet the Ontario Building Code to keep children **from** falling through or people climbing on.

The landside of the restricted area around the intake will be enclosed by fencing. All attempts will be made to ensure that this fencing is either visually appealing or masked by vegetation. The upstream end of this area will be blocked with a floating safety boom.

There are currently no plans to fence the area along the upstream north shore of the North Channel as this is Municipal land. SREL would be open to discussions with the Municipality should they wish to have SREL assist with the installation of fencing and/or landscaping to provide a physical barrier between the land and water. The water in this area is currently not easily accessible by land already because of the very dense shrubbery and rocks (see photo attached).

SREL also do not have any current plans to erect any barrier on the CP Rail land where it meets the restricted zone unless requested by CP Rail. Again, the water in this area is not easily accessible from land as the rail bridge abutments and vegetation restrict access to a large extent (see photo attached).

- o. The Township requires clarification that the trail along the north side of the upstream North Channel will not be affected by the proposed construction or operations.*

No work is proposed to be completed on or near the north shore of the North Channel, upstream or downstream of the North Dam, with the exception of the downstream anchor for the relocated boom and the installation of the proposed year round pedestrian/snowmobile bridge should the Township wish to proceed. See above item (n) for possibilities regarding barriers to water in this area.

- p. SREL is requested to identify any restrictions or warnings that may be imposed on divers in and around the works.*

Divers will no longer be able to dive in the area shown in yellow on the attached Figure 6.5.

Generally diving is not recommended near intakes or upstream of dams. It has been suggested by members of the public that divers currently use the area off Diver's point to commence dives. While this is not recommended either with or without our project, our project should not significantly change the existing strength of the currents in this area. Divers would, however, risk the chance of swimming below the two closely spaced safety booms. This is currently the situation with the adjacent south dam. Signage will be posted to notify people of the dangers of passing into the restricted zones beyond the safety booms, similar to what is present at the south dam.

There would be a small restricted area within the tailrace boom downstream of the plant as shown on Figure 6.5. It is assumed that divers generally use the deeper areas downstream of the dams and should, therefore, they should not be significantly impacted by our project.

Future Employment and Economy

- q. The Township requests that an Economic Impact Study be undertaken by an independent consultant to identify both the positive and negative attributes of the proposed development after the construction is completed and the plant is operational. The study should identify amongst other things, the effect on the*

Township of Muskoka Lakes

March 18, 2010

*seasonal and year round economy given the proposed changes to the North and South Falls. If negative concerns are raised the report should **identify** possible **mitigating** measures that could be taken.*

As stated above, SREL are seriously considering undertaking an Economic Impact study to identify impacts to the local economy for the construction and operational periods and outline possible mitigation measures. SREL are proposing to hire Bracebridge Generation, a branch of Lakeland Holdings out of Bracebridge, for the plant operations, maintenance and management. Bracebridge generation has indicated that they foresee hiring additional staff for this role.

Bonding and Securities

r. The Township inquires whether the Province requires a Bond or Security for the completion of the project.

It is my understanding that the Provincial Government does not generally require such a thing for these types of projects. However, SREL are required to provide security to the Ontario Power Authority (OPA) under our FIT application and eventual FIT contract to ensure that we do proceed to Commercial Operation.

In addition, both the original MNR site release program and the recent OPA FIT application required verification of SREL's financial capability to complete the project.

Please feel free to distribute this letter to the other councillors and/or staff as you feel appropriate.

Respectfully,

Karen McGhee

North Bala Small Hydro Project Manager
Swift River Energy Limited

c.c. Trion Clarke, Hatch Energy
Kristina Rudzki, EAAB, MOE

5. **Delegations and Petitions**

- a. Introduction of Assistant Chief at 9:04 a.m.

The Fire Chief introduced Assistant Chief Jim Schneider to Council. On behalf of Council, Mayor Ellis welcomed him to the Township of Muskoka Lakes.

- b. Mr. Bob List, agent, attended at 11:00 a.m., Re: Water and Ice

Mr. List indicated he was present on behalf of his client, Mr. Jeff Ryley, the owner of the Water and Ice property. Mr. List circulated a report, a copy of which is attached. He explained he was seeking settlement prior to returning to the Ontario Municipal Board. The proposed boathouse would be for residential use with a dwelling located in the second storey. Mr. List explained that the current zoning of the property is Waterfront Residential (WR1). The existing boathouse is 2970 square feet in size which is a legal non-complying structure with a legal non-conforming use. The owners wish to tear down and rebuild the boathouse with a residential dwelling located in the second storey. He noted several variances would be required. Mr. List felt that due to the topographical constraints of the property it would be difficult to construct a dwelling on the lot.

Mr. List reviewed the history of the existing boathouse, the original Zoning By-law Amendment Application, the Ontario Municipal Board Appeal, and the results. The proposed boathouse is smaller in size and Building Permits would be available. It is the use of the structure however that would not be permitted. The permitted use of the second storey would be storage in a marine/industrial capacity. Mr. List requested Council to direct staff to prepare a report to continue with the process.

Council held a brief discussion and requested staff to prepare a report for Planning Committee in this regard.

In response to Council's question, Mr. Fahner felt the application should be circulated again due to the length of time that has passed since the initial circulation.

- c. Jeff Mole, Save the Bala Falls, attended at 11:15 a.m. Re: Request the formation of an advisory committee related to the Bala Falls. A copy of the presentation is attached.

Mr. Mole attended the meeting to request that Township Council consider creating an advisory committee with members from the community and Council to address outstanding questions pertaining to the Bala Falls Hydro Project.

Council discussed the project and the current stage it is at. Mayor Ellis indicated that the Township was awaiting a response to questions posed regarding the Environmental Screening. She thanked Mr. Mole for his presentation.

There was no Council support for the formation of an Advisory Committee in this regard.

- d. Susan Church, Blue Sky Economic Development Growth Corporation, Neil Smellie, Core Broadband Inc., Jeff Buell and Scott Mannering, Blue Sky Net attended at 11 :30 a.m. Re: Update of Broadband Networks. A copy of the presentation is attached.

Ms. Church advised Council that Blue Sky Economic Development Growth Corporation has submitted a funding application under a new broadband program.

Ms. Church and Mr. Buell provided an update on the broadband network project in the Township of Muskoka Lakes and answered Council's questions on service levels and new technologies.

The CAO requested a map of the Township showing existing service coverage.

Mayor Ellis thanked the delegation for their presentation.

6. Business Arising from the Minutes

- a. Report from the Clerk Re: Action Items from Committee Meetings. A copy of the report is attached.

Resolution Number: C-5-26/01/10

Councillor Grady - Councillor Hare: Be it resolved that the following recommendations be enacted for action:

December 16, 2009 Committee of the Whole meeting recommendations 2 to 6 and

December 17, 2009 Planning Committee meeting recommendation 2.

Carried.

7. Public Meetings

- a. Other Public Meetings

None.

Proposed Bala Falls Hydro-electric Lower Station

Additional Study is Needed

Jeff Mole, SaveTheBalaFalls.com
January 26, 2010

Advisory Committee (Task Force)

- On December 15, 2009 the Moon River Property Owners' Association (MRPOA) presented to Township Council
- MRPOA asked that a joint committee be established to fully address the significant number of questions that remain unanswered subsequent to the review of the ESR
- We share these concerns and agree with the request

Previous Task Force

- The establishment of such an advisory committee is consistent with past precedents
- Previous task forces:
 - Economic Development
 - Streetscaping/Branding of Bala
 - Commercial Barge docking

Benefits of this Task Force

- Broader public notification and input process
- Orderly opportunity for the community to be heard by Council
- Link to the 2009 Strategic Plan
- Full consideration of future land use

P t e n t i | T e r 5 o f e f e r e n c e

- This task force would be comprised of members of the community and Council
- Report to Council regarding full breadth of long term effects of a hydro facility at Bala Falls
- Provide recommendation(s) to aid District Councilors in responding to the ask for use of District land at Sala Falls

Add-tio a S udy is ee e

- Significant unresolved community issues remain relating to safety, economic impact, community use and enjoyment and aesthetics
- These issues are sufficiently significant to warrant the creation of joint community/Council task force relating to the future of the Bala Falls.