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**MAR 25 2011**

Dear Concerned Citizen:

Thank you for your interest in Swift River Energy Limited's (SREL) proposed North Bala Small Hydro Project (Project). I welcome your comments on this Project.

You requested that SREL be required to prepare an individual environmental assessment (EA) for the Project. I am taking this opportunity to inform you that I have decided an individual EA is not required.

In making this decision, I have given careful consideration to the Project documentation, the provisions of the *Guide to Environmental Assessment Requirements for Electricity Projects* (Electricity Guide), and the issues raised in your request and the requests of others. You will note that this letter includes issues that you may have not specifically raised, however given the similarity of the issues brought forward regarding this Project, I have included them in this letter to you.

The issues and concerns raised by you and other requesters were extensively reviewed. I am satisfied that the issues and concerns have been addressed by the work done to date by SREL, or will be addressed in future work that is required to be carried out. Furthermore, I have imposed conditions on this decision to have SREL complete commitments made during this review.

The Environmental Screening Process (ESP), as set out in the Electricity Guide, is a process by which proponents plan and develop projects of this type, including assessing environmental effects, developing mitigation measures, and consulting with relevant stakeholders, including government agencies, public and aboriginal communities, without having to obtain approval from me for each individual project.

The Project documentation indicates that SREL has planned and developed the Project in accordance with the provisions of the Electricity Guide. I am satisfied therefore that the purpose of the *Environmental Assessment Act*, "the betterment of the people of the whole or any part of Ontario by providing for the protection, conservation and wise management in Ontario of the environment," has been met for the Project.



**Economic Impact:**

*The Project will negatively impact the surrounding business and the local economy. Swift River Energy Limited (SREL) has not adequately assessed the potential impact that this Project will have on this small community, and that both the construction and the operation of the Project will deter people from visiting the area, thereby impacting the economy.*

On August 24, 2010, I made a decision that SREL complete an Economic Impact Study (EIS) to document potential economic impacts.

The EIS was completed by the Centre for Spatial Economics on behalf of SREL, which utilized Statistics Canada data for population and employment figures for the Village of Bala. The EIS acknowledges that economic data for the Village of Bala is non-existent, and therefore the actual impact (positive or negative) the Project will have on the local economy could not be determined. The Ministry of Tourism and Culture (MTC) confirmed to the Ministry of the Environment (MOE), that economic data for the Bala community is not available, and thus the conclusions cannot be quantified.

During the EIS, a survey was distributed to 119 local businesses in an attempt to quantify the potential impacts to the local economy. In the surveys completed, local business owners note that while the Project may have potential negative impacts as a result of short term road closures and noise-related disturbances during the construction phase, they also expressed that the Project may have positive benefits due to providing services to the construction team during this same period.

The EIS concluded that although the Project may lead to short-term minimal negative economic impacts during the 18-month construction period due to potentially lower tourism numbers because of vehicle access restrictions, it may also provide opportunities for positive economic growth through local spending by those working to construct the Project. The EIS also predicts an anticipated larger attraction for the local tourism industry when the Project is in operation because of the proposed landscaped public viewing area.

Mitigation measures have been proposed in the Environmental Study Report (ESR), such as construction timing schedules which avoid conflict with key tourist events/festivals during the year, which further show the extent of SREL's consideration of potential impacts to the surrounding area.

MOE staff have reviewed the ESR and the EIS and I am satisfied that SREL has made a reasonable attempt to document the Project's potential impacts on the local economic environment, and has met the requirements of the Electricity Guide. I have determined that an individual EA is not required for the Project as a result of the assessment of potential impacts and the conclusions made by SREL.

**Cultural/Historic Landscape/Buildings:**

*The Project will negatively impact the cultural heritage and historical tourist designations of the Bala Falls site. The Project will result in the degradation of the cultural value of the area and surrounding buildings, namely the stone church.*

As part of the ESR, SREL undertook both Stage 1 and 2 archaeological assessments to determine the historical properties of the Project study area. The Stage 1 archaeological assessment determined that Purk's Place and the Stone Church were determined to have some archaeological potential that may worthy of preservation. As a result SREL undertook a Stage 2 Archaeological Assessment to identify any archaeological remains that may have present. The MTC reviewed the Stage 2 archaeological assessment and concluded that it was satisfied that the study area possessed no archaeological or cultural heritage significance and could be cleared for development.

SREL has proposed mitigation measures in the ESR to ensure that any impacts to the two buildings will be avoided. These include preparing a mitigation plan which documents how impacts from shock or vibration from blasting during construction will be minimized, in addition to undertaking a pre-blasting survey on both buildings prior to construction to document their existing structural conditions (cracks, etc). Furthermore, SREL will follow procedures such as controlled blasting and other safety precautions such as restricted access to the area during construction to further ensure that impacts to the buildings will be avoided.

Further, MTC states that there is no formal provincial tourism designation status placed on the North or South Bala Falls.

I am satisfied that SREL has met the requirements of the Electricity Guide for assessing potential impacts to the surrounding cultural environment. None of the sites in the Project study area, including the Stone Church and Purk's Place, have been determined by MTC to be of any provincial archaeological or cultural heritage significance. Also, there exists no documentation that shows that the Village of Bala has any provincial tourism designation.

### **Impacts to Tourism Events/Festivals:**

*The Project will negatively impact key events/festivals that take place throughout the year in the vicinity of the Project, such as the annual boat regatta during the civic holiday weekend and the cranberry festival which takes place around the thanksgiving holiday season.*

The ESR documents the key construction activities and timing schedule that has been coordinated by SREL to ensure that key events and festivals throughout the year will not be significantly impacted by the Project. The ESR documents the construction schedule and notes that the placement of the temporary bridge over Highway 169 will begin after the Cranberry Festival. Any traffic delays will only occur during this two week period. The bridge will be removed prior to the 2012 Victoria Day long weekend, so there will be no potential traffic delays occurring during the summer tourist season.

The Town Docks located upstream of the Project, will be unaffected by construction and operation with regards to access or navigation and will have no impact to the annual boat regatta during the August Civic holiday weekend. The falls will not be closed to public access during any of the construction period, and the recreational characteristics of the falls will be maintained and available to be enjoyed by the visiting public during this time.

I am satisfied that SREL has adequately assessed the potential impacts to the tourism events/festivals during the construction of the Project. In my decision, I have imposed a condition on SREL to adhere to the commitments made to follow the original construction timing schedule, to not impact any tourism festivals and key periods throughout the year, as expressed in the ESR.

### **Construction/Traffic Impacts:**

*The Project will significantly impact traffic movement during the construction period. As the period from April-October sees higher levels of tourist activity and associated vehicle traffic, the Project's construction activities and road closures will deter people from visiting the area due to congestion. Also, the visual impacts from construction activities, such as equipment, storage of excavated materials and vegetation removal may contribute to lower tourist numbers during this period of construction.*

SREL has documented in the ESR the procedures it intends to take to facilitate traffic management during the anticipated 18 month construction period. This includes construction of the Project after the Cranberry Festival, construction of a temporary

bridge during the off-peak winter season, and construction of the intake pipe under Highway 169 during the winter season.

As the Project construction will be ongoing during one full tourist season from May-October, SREL has proposed a timing schedule and mitigation measures to ensure that traffic along Highway 169 is not significantly interrupted at any time during the construction period.

The ESR also proposed mitigation measures to ensure that the impacts from construction are minimized, i.e. the presence of having flag men and installation of temporary traffic lights to facilitate traffic management so vehicles are able to move through the area without significant delay. SREL has proposed to construct a landscaped viewing deck above the facility to minimize visual impacts from vegetation removal during construction.

I am satisfied that SREL has met the requirements of the Electricity Guide for assessing potential impacts to the natural and social environment with regards to traffic and construction impacts. The mitigation measures proposed in the ESR ensure that any potential impacts will be minimized. In my decision, I have imposed a condition on SREL to adhere to the commitments made to follow the original construction timing schedule, to not impact any tourism festivals and key periods throughout the year, as expressed in the ESR.

#### **Water Management/Water levels/Flows:**

*Concern was raised with the reduced flows over both the North and South Dams as a result of operation of the Project. The diversion of water flows into the hydro facility will allow for significant reduction of flows over both falls, which will leave the falls almost dry and severely impact the scenic natural beauty the site is known for. In addition, the Project will reduce the water levels in both the Lake and the River, and will therefore not be in accordance with the Muskoka River Water Management Plan (MRWMP).*

The ESR documents that as a result of the Project's operation, there will be reduced average flows over both the North and South Dam following the construction of the Project. SREL has assessed the hydrology of the river system for the years 1960 through 2005 using data from the Ministry of Natural Resources (MNR). Daily flows have been used to determine high and low periods and for SREL to prepare an operation plan which accommodates these periods.



The MNR data shows that the North Dam typically sees flows of approximately 10 cubic metres/second ( $\text{m}^3/\text{s}$ ) or less, on average, during the period from May-October. However, during the prime tourist season (July-September) the actual flow is considerably less, in the 1-5  $\text{m}^3/\text{s}$  range for the drier periods of the summer season. As documented in the ESR, and also during a site visit by MOE staff on August 5, 2010, the only flow that passes through the North Dam during this time is through leakage of the stop logs.

The existing MRWMP stipulates that a summer minimum of 1  $\text{m}^3/\text{s}$  be released at each of the two Dams. The ESR documents proposed flows of 1  $\text{m}^3/\text{s}$  over the North and South Dam throughout the year with an increase to 2  $\text{m}^3/\text{s}$  proposed at the South Dam during the summer tourist (viewing) period. This flow distribution proposed in the ESR is preliminary estimates and subject to changes during detailed design. The ESR also states that the minimum flows required to operate the Project is 20  $\text{m}^3/\text{s}$ . Any incoming flows of 20  $\text{m}^3/\text{s}$  or less (which may occur during the summer season) will be distributed entirely over the two Dams and the Project will shut down until the flow increases to operating conditions, i.e. water flows over 20  $\text{m}^3/\text{s}$ .

The Project will be required to maintain Muskoka Lake levels and flows and levels through the Moon River (Bala Reach) according to the requirements of the MRWMP to protect water levels and flows. There will be no increase or decrease in the water levels in the Lake and River as a result of the Project operation. SREL will be required, prior to construction, to prepare an amendment to the existing MRWMP. The amendment will include documentation that this Project will be within the area encompassed within the MRWMP, and must document any relevant flow and level changes to the Lake, River and North and South Dams which will need to be in accordance with the requirements of the MRWMP, committed to by SREL and approved by MNR.

The MNR is responsible for ensuring that water levels and flows are managed appropriately. The MRWMP regulates water levels and flows for the waterbodies encompassing the proposed Project. As owner of both Dams, MNR will be responsible for ensuring SREL is in compliance with its standards.

In addition, a Flow Distribution Committee (FDC) established by SREL, has been organized by SREL which includes local residents and businesses. The FDC met with SREL on October 13, October 20 and October 27, 2010 to discuss the adequacy of the proposed scenic flows over the North and South Dams, primarily during the summer tourist period. SREL will ultimately determine if scenic flows over the North and South Dams are adequate or if modifications will need to be made to ensure the tourist industry and overall character of the area are not impacted.

MNR has submitted correspondence to MOE staff which states that while it currently has no outstanding concerns with the Project as proposed, SREL will be required to fulfill the *Lakes and Rivers Improvement Act* (LRIA) approvals and the amendment to the MRWMP before the Project is allowed to proceed.

I am satisfied that SREL has assessed water flows and water levels in consultation with a number of agencies, including Fisheries and Oceans Canada (DFO) and MNR, and the approvals which will be issued by MNR will ensure that the Project will avoid impacts to the surrounding natural environment, specifically the surrounding waterbodies.

**Access to Shorelines:**

*The Project will restrict access to public areas, such as the municipal boat docks located near the proposed Project intake and other areas surrounding the North and South Bala Falls.*

The ESR documents existing shoreline access and considers the potential for disruption after the Project is constructed. The ESR notes that existing accessible areas, such as the shoreline between the North Dam and the new upstream navigational safety boom, where the Purk's Place building is currently located, will be the area which will contain the intake, and thus will be restricted to prevent the accidental entry of persons into the high velocity waters. This means that no persons will be able to access the area for swimming, boating, or portaging. In addition, the area surrounding the Project tailrace (approximately 25 m of shoreline) will also be restricted by a navigational boom for safety reasons. Only these two areas will be publicly restricted.

SREL confirms to MOE that existing recreational areas, located both upstream and downstream of the Project, will be maintained. SREL has committed in the ESR to maintaining unrestricted access to the shoreline between the North Dam and the Project, as well as maintaining access to the shoreline between the Project and the South Dam. In order to better accommodate visitors to the area, the Project will include pedestrian paths and steps to allow easier access to the area between the North Dam and the Project. The municipal dock located upstream of the Project will be maintained and access to these facilities will be unrestricted and function as they do currently after the Project is in operation. Transport Canada (TC) has confirmed to MOE staff that these areas will maintain their navigational properties, and will not be negatively impacted by the Project's implementation.

I am satisfied that SREL has considered access to the shoreline areas around the North and South Dams and the potential impacts as a result of the implementation of the Project.

**Access to Areas around Dams (As per OPG Warnings/Fines):**

*The Project will substantially restrict access around the facility, both upstream and downstream, as per the Ontario Power Generation (OPG)/Ontario Provincial Police (OPP) warnings and regulations displayed and expressed to the public via television campaigns and printed media. Once the Project is completed, public access to areas near the Project, possibly a 2 kilometre (km) radius around the intake and tailrace, would become completely restricted, and would significantly impact the recreational, fishing, and boating access features of the study area.*

Recent OPG/OPP television commercials and print media are advising the public that they must stay clear of dams, hydroelectric stations and the surrounding waterways, enforced with fines and penalties. OPG has confirmed with MOE that these warnings and regulations do not apply to this Project and only apply to OPG operated facilities and properties.

Although exact numbers are not known, the ESR documents that the restricted area upstream will be approximately 100 m from the intake location and approximately 10 m surrounding the Project tailrace. The 2 km radius of restricted area mentioned by some of the requesters will not apply to this Project. TC confirms that it has no outstanding issues with respect to navigational concerns.

I am satisfied that SREL has assessed potential impacts to the surrounding environment, and the Project will not significantly restrict access to the public recreation areas as expressed in other, non-related warnings and penalties, specifically those from OPG.

**Impacts to Recreation:**

*The Project will disrupt the current recreational uses currently accommodated at the site, due to increased water velocities around the powerhouse facility and the diversion of flows over the dams which will cause minimal flows to pass over the North and South Dams.*

The ESR documents the assessment of the potential negative impacts to the current recreational uses of the area. With regards to potential impacts to swimming and recreation for the area immediately downstream of the North Dam, MNR has confirmed



to MOE staff that this area is currently designated as a “no swimming” zone due to its proximity to the North Dam.

SREL has indicated that the areas around the North Dam will be unaffected by the operation of the Project and will continue to be signed as a restricted area, however it will not be further fenced off or physically inaccessible. This area will continue to be unsafe to permit swimming or other recreation uses due to its proximity to the Dam and not as a result of the Project operation.

SREL has documented in the ESR that areas restricted from public access will be clearly marked by safety booms and appropriate signage. These areas are immediately downstream of the tailrace and upstream of the intake. It is noted in the ESR that these areas will no longer be a safe place to scuba dive, given the possibility of the diver to become disoriented and to venture past the overhead boom. However, SREL has indicated that other nearby areas, such as Diver’s Point, will continue to be unaffected by the Project operation and will continue to be a safe location for scuba diving.

With regards to snowmobiling, SREL has documented in the ESR that during construction, a narrow snowmobile access will be maintained along the south side of Bala Falls Road so snowmobilers may be able to continue to use the trail without disruption. I understand that SREL is in discussions with the Township to assist with the installation of a proposed new, year round snowmobile/pedestrian bridge that would cross the river upstream of the North Dam and negate the need for snowmobilers to use the current passage over Highway 169. This proposal for a new bridge is separate from this Project and at this time is in its preliminary conceptual stage with the Township.

I am satisfied that SREL has assessed potential impacts to the recreational uses of the surrounding area.

### **Boating Safety:**

*The Project will create unsafe boating navigation conditions both upstream and downstream, and will significantly impact the public boating facilities, such as the municipal dock located just upstream on Lake Muskoka (Lake). The strong currents produced by the Project intake will make it very difficult to navigate the surrounding area by boat, and possibly lead to accidents and injuries.*

The ESR noted that there may be increased risks posed by increased flows and velocities as a result of the Project. The ESR documents the specific areas where velocities and flows will be consistently high during operation. In order to protect public and boating

safety, these high velocity areas will be restricted by safety booms, signage and/or fencing, and will be inaccessible by boats. TC reviewed the Project documentation and confirmed to SREL that the proposed intake boom location, upstream of the Canadian Pacific rail bridge, is reasonably placed and will provide continued access the municipal dock and Diver's Point. TC states that the downstream tailrace boom is also reasonably located and will not remove access to navigation of any significant water area. As the velocity from the tailrace will eliminate the swirling (circular) flow which presently occurs in that area during high flows, easier handling of small vessels in that zone will result and enhance public safety.

With regards to the existing use of the public municipal dock, TC also concluded that water velocities upstream of the boom during Project operation will allow boating to continue as it currently does. The annual regatta, which accommodates several boats at the municipal dock over the Civic Holiday weekend, will be able to proceed without any disruption. TC stated it is satisfied that the Project will not negatively impact the surrounding environment from a navigational perspective.

SREL will also be submitting the Project for review under the Canadian Environmental Assessment Act process, as the Project will be required to obtain an approval from TC under Subsection 5(1) of the Navigable Waters Protection Act prior to construction. This ensures that the Project will maintain safe navigation conditions throughout construction and operation.

MOE staff have reviewed the ESR, in addition to TC's documentation of its review of the Project, and I am satisfied that SREL has met the requirements of the Electricity Guide for assessing potential impacts to the surrounding environment with respect to boating safety and navigation.

#### **Aesthetics/Facility & Equipment Details:**

*The aesthetics and design of the Project will take away from the beauty and natural appearance of the Falls and will make the area less desirable from a visual perspective. The renderings of the Project do not show in detail what the facility will look like and how access will be maintained at the site.*

The area surrounding the Project may be temporarily impacted during the construction period. Visual impacts documented in the ESR include the presence of construction equipment and vegetation removal on the Project site. SREL has proposed mitigation measures in the ESR to minimize the impacts that these activities will produce on the surrounding environment during construction, such as the preparation of a restoration

plan to plant native species in surrounding areas as a result of the vegetation removal at the Project site.

Furthermore, the Project is intended to be constructed primarily underground, and will be topped by a landscaped viewing area, which will allow the public to utilize for recreation and tourist purposes once the Project is in operation. Final details of the visual elements of the Project, such as direct access to the shoreline from the Project site, in addition to locations of vents and hatches required for the Project and signage and fencing considerations will be determined during the detailed design phase.

SREL has committed to forming a Public Advisory Committee during the detailed design phase to allow the public to provide input for the final appearance of the landscaping and other aesthetic elements of the Project.

MOE staff have reviewed the ESR and I am satisfied that SREL has met the requirements of the Electricity Guide for assessing potential impacts to the surrounding natural environment and has proposed appropriate mitigation. Further, I have imposed a condition on SREL to reinforce SREL's commitment to developing this Public Advisory Committee and to consider any recommendations from meetings of the Project's Public Advisory Committee into the final visual design of the Project.

### **Fish Habitat and Fisheries:**

*Due to increased water velocities and interference with the turbine equipment at the intake and tailrace, the Project will cause significant destruction to aquatic populations. SREL has failed to address the potential negative short and long term impacts to these sensitive fish spawning and habitat locations in the ESR.*

SREL completed an assessment of potential impacts to fish and fish habitat as a result of the Project's construction and subsequent operation. The ESR notes that there are walleye spawning beds located adjacent to the Project's proposed outfall, and that construction activities such as excavation and blasting may temporarily or permanently affect these habitats and/or fish populations. DFO, the federal agency responsible for fish habitat, provided comments to SREL and cited specific concerns with regards to compensation proposed for fish and fish habitat. DFO asked SREL to address issues that the Project may lead to the harmful alteration, disruption and destruction (HADD) of fish habitat. As the Project will be required to obtain approvals from DFO under subsection 35(2) of the Fisheries Act for authorization of works leading to the HADD prior to construction, SREL must address these issues prior to that stage. After discussions with DFO, SREL documented changes to the Project with respect to excavation and blasting

procedures, in addition to documenting modified mitigation measures to ensure that DFO's issues with fish and fish habitat were addressed. These modifications were prepared and submitted to DFO in a letter of intent by SREL for approval and DFO confirmed with SREL and MOE that it is satisfied that all fish and fish habitat related concerns have been adequately addressed.

MOE staff have reviewed the ESR and subsequent SREL letter of intent to DFO, and in consideration of DFO's satisfaction that the Project will not significantly impact fish and fish habitat as a result of construction or operation, I am satisfied that SREL has assessed potential negative impacts to the surrounding natural environment. Further, SREL will be required to obtain permits/approvals from DFO prior to construction of the Project.

**Public Consultation:**

*The public consultation process was inadequate for this Project. The public review period was too short and an extension should have been required to review the lengthy ESR and provide comments to SREL.*

The Electricity Guide sets out the requirements for public consultation. MOE staff have reviewed the ESR prepared for the Project with regards to public consultation. The Notice of Commencement for the Project was posted on August 8 and 9, 2006. SREL held two Public Information Centres (PIC) for the Project, on August 29, 2007 and August 13, 2008 respectively. Given the level of public interest for the Project, the review period was extended from the required 30 days to allow the public and stakeholders to additional time to review the Project documentation and provide comments to SREL. The Notice of Completion (NoC) was posted by SREL on October 13, 2009 and the ESR was provided for review by the public for an extended period of 44 days, concluding on November 27, 2009.

SREL has hosted and attended many public and council meetings since the conclusion of the public review period. After reviewing the Project documentation, I understand that approximately 25 meetings have been attended by SREL, mostly with public and stakeholder groups, in addition to Township of Muskoka Lakes (Township) Council meetings to discuss outstanding issues with the Project. In addition, SREL has provided numerous information notes and Project status updates on the Project web site since the NoC was issued.

I am satisfied that SREL has met the requirements of the Electricity Guide for public and stakeholder consultation and that the public had numerous opportunities to comment on this Project.



**Water Pollution:**

*The Project may cause pollution to the watercourse, through its use of lubricants and fluids to operate the turbines, cooling water used to maintain operating temperatures within the equipment, and by the pumps and wash sink within the facility itself. The potential for releasing various pollutants into the water as a result of the operation of the Project is a significant issue and will negatively impact the surrounding natural environment.*

The ESR documents the potential impacts to surface and groundwater as a result of the Project and the mitigation measures proposed to ensure that the water surrounding the facility is not polluted by various materials utilized for Project operation.

The Project will require certain hazardous materials to operate the equipment; such as hydraulic fluids, oils and fuels. However, the ESR documents that the facility will be equipped with containment systems, such as an oil-water separator, to ensure that any spills inside the facility will not leak into the downstream River watercourse. A Certificate of Approval (CofA) under the *Ontario Water Resources Act* for Industrial Wastewater Discharge will be required to operate the oil-water separator. In addition, the ESR documents that spill containment materials will be kept at the facility at all times, and that any spills will be immediately reported to the MOE Spills Action Centre and disposed of at a MOE approved site in accordance with the MOE waste disposal procedures of Ontario Regulation 347 under the *Environmental Protection Act*. Furthermore, SREL will be required to obtain a waste generator number and submit a Generator Registration Report to the MOE for each waste generated at the facility, as per the requirements of Ontario Regulation 347. These requirements will ensure that the surrounding environment will be protected and that pollution to the surrounding water will be avoided as much as possible. These approvals will need to be issued prior to implementation of the Project.

I am satisfied that SREL has assessed potential impacts to the natural environment, specifically water pollution. The CofA that is to be required by SREL will further ensure that impacts to the surrounding water will be properly assessed.

**South Channel Development/Alternatives assessed:**

*The South Bala Dam should have been considered as the preferred alternative for the Project, as it is a better location for a hydropower facility. The South Dam is not as popular as the North Dam with regards to recreation and tourism, and therefore would*



*not pose as much as a negative impact to the surrounding environment as a development adjacent to the North Dam.*

As owners/operators of both the North and South Bala Dams, the MNR has jurisdiction over the potential development of these sites for hydropower development. The MNR states that under the competitive release process of the MNR Waterpower Site Release Policy, MNR selected the North Dam only as a potential location for waterpower development, due to the availability of Crown land at its location and that MNR cannot direct development onto private/municipal land. In addition, MNR states that the South Dam was not considered as a potential location for development due to the fact that it is the principle dam for controlling water levels on Lake Muskoka and for flood mitigation, and that a waterpower facility in this location would likely impact or impede the South Dam's discharge capacity which would significantly impact the surrounding environment. Therefore, with respect to alternative sites for hydropower development, the South Dam was never considered to be an alternative for this Project by MNR or SREL.

I am satisfied that SREL has met the requirements of the Electricity Guide for assessing potential alternatives for the Project.

**Noise:**

*The Project will produce high levels of noise and vibration when in operation which will cause significant negative impacts to the surrounding environment.*

As part of the ESR, SREL prepared an acoustic assessment for the Project. This study assessed potential changes in noise levels after the Project is in operation and if any mitigation is required as a result. As part of this assessment, SREL determined the baseline sound level limits at five points of reception (POR) near the proposed Project. The sound level limits were determined using MOE's "Sound Level Limits for Stationary Sources in Class 1 and 2 Areas" (sound level limits) (1995). According to the sound level limits, the maximum sound that can be recorded for Class 1 areas, defined as urban areas is 50 A-weighted decibels (dBa) during the daytime hours (07:00 to 19:00) and 47 dBa during the night time hours (19:00-23:00). For Class 2 areas, which is also characterized as urban but also requiring lower ambient sound levels during the night time hours, the sound level limits are 50 dBa during the daytime hours and 45 dBa during the night time hours. SREL determined that for all five POR's (all categorized as either Class 1 or 2 locations), which included the Stone Church and Purks Place, the sound levels recorded were lower than MOE's sound level limits. In addition, SREL determined that the existing recorded background sound levels, produced primarily by the

North Falls itself and vehicle traffic traveling in close proximity to the Project, is such that the noise produced from the Project will be masked by the existing ambient noise and will not be significantly noticed by the surrounding population.

SREL has proposed mitigation measures to reduce noise during the Project's operation, which include installing the transformer within the underground powerhouse and locating generator cooling fans in areas where the exhaust directionality is toward existing sources of noise, such as Muskoka Road 169 and the railway line.

The acoustic assessment was reviewed by MOE technical staff as part of its review of the draft ESR. SREL incorporated MOE technical staff's comments and concerns in its final ESR, released October 2009. MOE technical staff subsequently confirmed to SREL that it has no outstanding concerns with the Project with respect to noise. In addition, noise produced during the construction period would have to comply with municipal noise by-laws.

I am satisfied that SREL has assessed potential impacts to the surrounding natural and social environment with regards to noise.

#### **Existing Utilities:**

*The construction of the Project will impact and disturb the existing utilities located under Highway 169, and will disrupt service.*

As the Project will require construction under the existing Highway 169, local municipal utilities will be required to be relocated during this period. SREL documents in the ESR that currently there are three underground municipal utility lines which cross the Highway within the Project area. There is a 50-millimetre (mm) diameter low pressure forcemain, a 150-mm diameter forcemain and a 350-mm diameter water main. Any relocation of these pipes will require permits and approvals from the District of Muskoka. SREL will work with the District of Muskoka and possibly the Township with respect to any disruption of services associated with the relocation of the lines discussed above. SREL confirms to MOE that discussions with the District of Muskoka pertaining to the relocation of utilities have begun and details will be confirmed during the detailed design stage of the Project.

I am satisfied that SREL has considered potential impacts to existing municipal services as a result of the Project and that all discussions and plans to relocate such service utilities will be made at the municipal level.

**Emergency Response Plan:**

*SREL has not assessed the possibility of an emergency at the Project site, and have not ensured that the facility will be safe for those who utilize the area surrounding it. In the case of an emergency, the Project will not be able to respond in a reasonable amount of time, which can lead to tragic consequences.*

MOE staff have reviewed a draft public safety guideline completed by MNR, as current dam owners/operators, which documents potential risk management measures required under the LRIA for sites, such as this Project study area. The guideline documents measures and requirements for such things as types and locations of restrictive signage and booms, in addition to the facilities owner's coordination with local emergency responders. This guideline is anticipated to be finalized prior to construction of the Project, and will be evaluated and incorporated by SREL during the detailed design phase of the Project. SREL has committed to MOE staff to complying with the guidelines proposed by MNR noting that final details will be determined during detailed design phase.

SREL will be required to incorporate an emergency response plan as part of the LRIA approval from MNR. MNR will determine if the procedures proposed by SREL with regards to potential emergencies at the Project site will be adequate enough to warrant the LRIA approval and essentially determine that the Project has adequately assessed public safety and emergency procedures.

Through the review of the ESR and subsequent responses by SREL and MNR, I am satisfied that SREL has considered potential emergency response planning and public risk management during the planning of the Project. Further, through the MNR LRIA approvals process, SREL will be required to comply with the applicable MNR guidelines on emergency management.

**Portage:**

*The Project will lead to the removal of the current portage route in the area of the North Bala Falls. SREL has not provided any detail of how to mitigate or replace the current portaging route with a suitable alternative.*

The ESR documents that, in order to ensure public safety, the existing upstream navigational boom will have to be relocated, which will replace the existing portage at the Purk's Place dock in the public restricted area, and thus not available. The existing portage entrance into the River, located just south of the Dam and adjacent to the Project,

will continue be available, as will the easily accessible public boating docks located on the River approximately 100 m downstream from the Dam outfall. These alternatives ensure that portage will not be significantly impacted as a result of the Project.

TC, the responsible authority for impacts to navigation, including portages, has reviewed the ESR and has confirmed that the alternative portage routes are acceptable.

MOE staff have reviewed the ESR, and the subsequent documentation from TC, and I am satisfied that the Project has met the requirements of the Electricity Guide for assessing potential impacts to navigation and public safety.

**Site Release/Selection Process:**

*The MNR Site Release Process for this Project was flawed, and that MNR released the site for development without assessing the potential negative impacts it may have on the surrounding community.*

The MNR Competitive Site Release process was undertaken in order to select the North Bala Falls location for hydropower development. SREL was named Applicant of Record by MNR through its successful proposal of this Project. The MNR Site Release process is separate from the Environmental Screening Process which has been followed by SREL. Any issues with the Site Release Process should be directed to MNR.

**Safety of Jumpers from Railroad bridge:**

*The Project will threaten the safety of the public, mostly children, who currently use the CP railway bridge, located upstream of the North Dam, to jump into the Lake. The location of the Project intake and the increase of water velocities around this area will allow for this activity to become even more dangerous and may lead to severe injuries and even death.*

As stated in the ESR, persons do occasionally jump from the existing CP railway bridge into the North Channel upstream of the North Dam. Once constructed, the upstream navigational boom will be located in the area where this activity takes place. Trespassing onto CP property is illegal according to the Railway Safety Act and SREL has no obligation to accommodate such activities with the placement of its navigation booms. SREL is not required to assess the potential disruption of this activity, and once constructed the Project will actually contribute to promoting public safety by further restricting persons from jumping into the channel. TC has reviewed the location of the

upstream navigational boom and SREL will be required to obtain its approval under the Navigable Waters Protection Act prior to construction.

**Need for Project/financial responsibilities:**

*Although waterpower is listed as a renewable energy source under the Green Energy and green Economy Act, the Project itself can not be considered green. Also, the Project will not provide any substantial contribution to the power needs of Ontario and that the Project will likely be subsidized by taxpayers.*

SREL notes in the ESR that it is not applying for any subsidies for this Project, and it will be entirely self-funded. Also, as part of the Feed-in-Tariff contract with the Ontario Power Authority (OPA), all power generated from this Project will be sold to the OPA. The Project will contribute to the need for renewable energy and ensure the commitment of the Ontario Government to phasing out coal-fired electricity generation by the end of 2014 is achieved.

**Issues pertaining to Township/District of Muskoka Land Lease Agreements:**

After the public comment period, many have expressed concerns relating to the land lease agreement that is required in order for SREL to construct the Project on Township and District of Muskoka land. SREL has documented in the ESR, and through subsequent correspondence with MOE, that it has been in discussions with the District of Muskoka, beginning in 2008, to reach a land lease agreement for land that is required to construct the Project. Although a lease agreement in principle was documented in 2008 by the District of Muskoka, pending EA clearance, the details of the lease agreement are still being assessed and discussed by SREL and the District of Muskoka. If the District of Muskoka, or the Township does not lease the land to SREL, required for the Project as it is currently planned, SREL has indicated that the Project will need to be moved onto Crown land, originally considered as Option 1. Any changes to the Project will be required to meet the requirements of the Electricity Guide.

The Township and District of Muskoka land lease agreements with SREL does not affect the Director's decision on the elevation requests. The Project that is being considered is the Project as documented in the current ESR.

In accordance with the ESP, my decision will become final 15 calendar days after this notice of my decision is received, unless a request is made by you within that time that the Minister of the Environment (Minister) review my decision. This notice is deemed to be received on the fifth day after it is mailed. Please note that the details for requesting

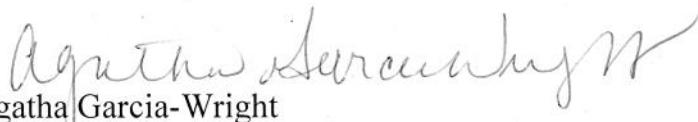


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that the Minister review my decision are outlined in section B.4.1.2 of the Electricity Guide. If you do not have a copy of this guide, it is available on the MOE's web site. If no request is made to the Minister to review this decision, SREL may submit the required Statement of Completion and then may proceed with the Project, subject to any other permits or approvals required. SREL must implement the Project in the manner in which it was developed and designed, as set out in the Project Report, inclusive of all commitments made during the review of the elevation requests, mitigating measures, and environmental and other provisions therein.

Again, I would like to thank you for participating in the ESP and for bringing your concerns to my attention.

Yours sincerely,

  
Agatha Garcia-Wright  
Director  
Environmental Assessment and Approvals Branch

Attachment

c: Ms. Karen McGhee, Project Manager, Swift River Energy Limited  
Mr. Larry King, Consultant Project Manager, Hatch Energy

