



April 11, 2011

The Honourable John Wilkinson
Minister of the Environment
77 Wellesley Street West
Ferguson Block
11th Floor
Toronto, ON M7A 2T5

Dear Minister Wilkinson,

**Re: Request for Minister's Review of Director's Decision that an Individual
Environmental Assessment is Not Required
for the
Proposed North Bala Falls Hydro-electric Generating Station**


The Moon River Property Owners Association (MRPOA) has 256 members who are property owners along the shores of the Moon River in The Township of Muskoka Lakes.

There are over 300 properties on the river and our association clearly represents the majority of those owners. Of our membership, 86% have indicated their opposition to the proposal brought forward by the proponent, Swift River Energy Limited Partnership (SREL). MRPOA members have asked MRPOA to represent them vigorously in these matters.


Before proceeding further, here is very small example of what Bala is about.

BALA !

Sounds exotic, doesn't it?
Not the type of name to associate with small town Ontario.
Actually, in 1868 Thomas Burgess, Bala's first settler, gave the town its name after another picturesque town he knew: Bala, Wales, our twin community!



Bala is a mecca for cottagers and those wanting the "cottage country experience. Blue water and sky and lush green in the Summer; an inferno of colour and ruby red cranberries in the Fall! We offer sparkling snowmobile and cross country ski trails in the Winter; snow scenes straight from a Christmas card as the mist from Bala Falls provides a delicate coating of frost on the trees; and after the long Winter sleep...? Spring bursts forth! A melody of life and sounds that you'll never hear in the city!



Thomas Burgess

For a clear view of what Bala and the site of the proposed development, please refer to Picture 1.



Our members, many of whom wrote to the Ministry of the Environment (MoE) requesting an elevation to an individual environmental assessment, are very disappointed that the Assessment Review Branch has ignored their requests. Our members feel this project should not be permitted in any form.

What follows will be a detailed analysis of the Director's decision. I will also point out why, in my opinion and in the opinion of our members, we believe that, at a minimum, the proponent should be required to undertake an "Individual Environmental Assessment".

Public Consultation

It is our opinion that inadequate public consultation on this project has taken place. In her letter of decision, the Director states:

In your request, you indicate that the public consultation undertaken for this Project was inadequate. Specifically, you state that public review period was too short and an extension should have been required to review the lengthy Environmental Study Report (ESR) and provide comments to SREL.

The Electricity Guide sets out the requirements for public consultation. Ministry of the Environment (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.

The Township of Muskoka Lakes (TML) is a rural area with a small year-round population. In contrast, the population swells in the summer months. Of the homes in the Ward A section of TML where Bala is located, over 800 are cottages while the remaining 200 are permanent residences. Consequently, releasing the Environmental Screening Report (ESR) in October 2009 was very unfair of the proponent. Few property owners saw the advertisements announcing its release, no one was emailed copies of the report by the proponent nor did they even have the courtesy to advise MRPOA that it was available. The proponent placed a nearly 800 page, highly technical document on its website and told us to download and print our own copies if we wished. In a community where high-speed internet service is largely unavailable and computer access is a challenge for many, these deliberate actions created serious difficulties for those who were in the area in October, and those who were elsewhere.



As a result, many residents were unable to comment on the ESR as they had no knowledge of its existence until long after the comment period had closed. Furthermore, the statement by the MoE that the process is proponent driven, with the MoE unable to require a longer comment period, is unacceptable. The MoE is responsible for the process and, thus, should be capable of ensuring that a consultation period meets the needs of both the proponent and those likely to be impacted by the proposed project. The fact that the proponent extended the period by 14 days did little to ensure that more residents had an opportunity to comment intelligently about a very technical document.

The proponent has had years to prepare their ESR and even had it vetted several times by various agencies and organizations. To give ordinary citizens only 44 days to review, comprehend and respond to a complex engineering report is highly prejudicial.

The Director has also commented that:

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.

This statement is completely inaccurate and we take great offence to her remarks.

There have been no meetings with any stakeholder groups. The last time the proponent was present at a MRPOA meeting was in the spring of 2009, long before the ESR was released.

There have been no other public meetings in 2009, 2010 or to date in 2011. In fact, the proponent has refused to meet with the public at all since the ESR was released. They failed to attend a meeting in August 2010 hosted by SaveTheBalaFalls.com and forced TML to cancel a "town hall" style meeting in Bala in September 2010.

In August 2010, TML Council asked members of the public to become members of a TML Committee that would be struck to work with the proponent. Many community members volunteered to participate. The committee never met and TML refused to tell us who had volunteered to participate. Oddly, though, the proponent did know who had volunteered. Subsequently, the proponent sent out an email advising volunteers that the committee would not be formed.

Instead of meeting with stakeholders, the proponent has made numerous presentations to both the TML Council and to the Council of the District of Muskoka.

These were 5 to 10 minute presentations by the proponent's representative, with no opportunity to dialogue with actual stakeholders. I would also add that the presentation techniques used by the proponent have been extremely unprofessional and, at times, very confrontational.



In addition, the proponent has:

1. Interfered with the municipal elections by placing ads in local newspapers in the fall of 2010. Please refer to Attachment A.
2. Refused to provide accurate updates on the project to TML Council or to post them on their own web site.
3. Provided TML Council with incomplete, misleading and inaccurate answers to questions at various Council meetings. As an example, I would offer the subject of the use of Margaret Burgess Park. Please see below for more details.

Margaret Burgess Park is adjacent to the Bala United Church. It has a large mature forest of pine trees, and picnic benches, and provides access to the north side of the North Falls. In January 2011, at a TML Council meeting, the proponent told Council after considerable questioning, that this property will be **included** in their leased lands agreement with the Ministry of Natural Resources. The question arose because citizens were inquiring about "construction staging" locations in Bala and were unable to receive clear and concise answers from the proponent. Once TML Council found out that the MNR lands were going to be leased to the proponent, Councillors wanted to know if the park might be used as a "staging area". After much pressure from TML Council, the proponent said that might happen. This has caused considerable angst in the community and was not viewed as good news by Council. Since that information was released by the proponent's representative, she has tried desperately to back-track and to convince the community that the land will not be used. Such was the case at the February 2011 TML Council meeting when the proponent's representative said she did not make the remarks at the January TML Council meeting. At the February meeting, she was reminded by Councillor Bob McTavish of her earlier January remarks. Since then, the proponent has been doing damage control trying to persuade residents that the park will never be used for staging. The proponent's recent remarks remain in direct opposition to what is written in an MNR letter received April 11, 2011. Please refer to Attachment B.

The community is also very disappointed in the manner in which the proponent has addressed the 105 elevation requests sent in as responses to the proponent's ESR. The answers have been vague, confusing or evasive. In many cases, the proponent has refused to offer substantive mitigation measures or completely ignored requests for mitigation by hiding behind regulations or policies of other agencies and/or governments.

Community and TML council frustration about this situation has results in the decision by TML Council to collect and submit, to the proponent, a lengthy list of questions with the expectation that clear, concise, truthful and appropriate answers will be forthcoming. Please see Attachment C for the list of questions.

In our opinion, the manner in which the proponent has conducted business to date has been neither transparent nor honest.



The proponent did create a “scenic flow committee” late in the fall of 2010. There was no transparency in this process. The proponent hand-picked the participants, ignored those who had volunteered for the TML- organized committee in August 2010. The proponent did not even bother to consult or confer with our organization or SaveTheBalaFalls.com. Subsequently, the committee was forced to meet for 3 lengthy meetings, all of which were tightly controlled by the proponent. Then, just as hastily as the committee was convened, all work stopped, no report was ever presented, and no further meetings have been scheduled.

In addition, the committee never did reach a consensus on what the scenic flow might be, if the project goes ahead.

In conclusion, it is our opinion that a fulsome program of public consultation was not allowed to take place. Once the proponent realized that the majority of the residents, of both Bala and of the Moon River, were opposed to their project, they decided to concentrate their efforts solely toward getting their ESR finished and accepted by the MoE. They basically shunned the residents and tried to force their will upon our elected officials.

This is not how we believe public consultation should be permitted to take place. MRPOA is requesting that you require additional and proper public consultation, including meetings with stakeholders at times when the majority of those who might wish to take part are actually present in Bala.

Site Selection

It is our opinion that the MNR, the MoE and the Ministry of Energy (MoEng) have erred in their decision to permit this development on the North Bala Falls.

The Director states in her decision that:

As owners/operators of both the North and South Bala Dams, the Ministry of Natural Resources (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.

We believe that both the MNR and the MoE have acted far too hastily in making a decision to use the North Bala Falls as a site for the location of this proposed facility.



It is our firm belief that the MNR and the MoE both overlooked the possibility of undertaking any one or some combination of the following options that are currently available in the Bala area:

1. Burgess Generating Station – This existing power generating facility is owned by TML. It is operated on a monthly lease basis by Algonquin Power. Algonquin currently pays the Township a monthly lease amount of \$1,000. Algonquin no longer wishes to be the operator of this facility. The site has the potential to be upgraded **with little impact** whatsoever on Bala, and at a dramatically reduced cost compared to the current proposal for the North Bala Falls. In addition, because TML is the landlord, revenues will flow directly into the community.
2. Ragged Rapids Generating Station – This station is owned by OPG and is located on the Musquash River approximately 10kms west of Bala on Ragged Rapids Road. Its facilities could be upgraded significantly at a reasonable cost, without any detrimental impacts for Bala or the surrounding area.
3. Moon River Water Level Control Facility – This facility is also located on the Moon River and is about 1km from the Ragged Rapids Generating Station. It is also owned by OPG and, while it does not currently have a generator installed, possibly could have one put in place with little impact on the area.

It is worth noting that all three of these existing facilities are located in very close proximity to the existing distribution grid. Thus, minimal funding would be required to connect them to the current feed-in system; in fact, Ragged Rapids and Burgess are already connected.

We would also like to add that, to the best of our knowledge, there was no consultation undertaken by MNR staff regarding site selection. It was simply announced that the North Falls had been selected for development. Residents were completely unaware that the MNR had any plans to develop the site until long after the review and decision had been made.

Therefore, we respectfully request that you require that a complete review of the decisions leading to the North Bala Falls be undertaken, including a review of possible alternative sites, before permitting the proponent's current project to proceed.

Recreational Use of North Bala Falls

The area surrounding the North Bala Falls is a significant location for a variety of recreational activities. It is our belief that the proposed project will increase the safety risks to those who use the location for recreational purposes.

The Director states in her decision that:

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

It is our position that the proponent has not:

1. Properly assessed these risks.
2. Prepared and made public any mitigation plans to reduce or eliminate the potential risks.



3. Acknowledged the severity of the increase in risk to recreational users of the location.

In her letter, the Director notes:

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.

From this statement, we conclude that the Director is accepting, at face value, information from the MNR without any third party corroboration.

On the upstream side of the North Bala Falls dam, there are no “No Swimming” signs, despite what the MNR is reporting. As evidence, we include current photographs of both sides of the CPR Bridge and signs of the surrounding shoreline. Please refer to Pictures 2 through 5.

The Highway 169 Bridge has no signs of any type on the bridge face. Please refer to Pictures 6 and 7. There are two tiny signs affixed to poles by the roadside that tells those on the sidewalk that “Swimming from the Bridge is prohibited”.

The North Falls Dam structure does have a sign on both sides, warning of dangers but the “No swimming” icon is small and hard to read from even as close as 50 feet. Please see Pictures 8 and 9.

The last area of concern is Burgess Island. Once again, there are no signs indicating danger or “No swimming”. Please see Pictures 10 and 11.

We believe that the MNR and the proponent have misled MoE staff by stating that the area is well- signed. Clearly, it is not. While the MNR and the proponent say that swimming is not permitted, there is little effort made to publicize that information. The proponent plans no mitigation of the danger.

The North Falls area is a well-known and recognized recreational location and, yet, the proponent has no plan or intention to mitigate the risks to those who use the area. In fact, a statement, referred to by the Director, says:



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.

This is an issue that should have been addressed in the ESR, but the proponent has ignored it completely.

MRPOA believes that an accredited water safety organization, such as the LifeSaving Society, must be hired to conduct a complete safety audit of the entire area surrounding the North Bala Falls and the site where the proponent proposes to build the facility. The audit would examine the safety concerns, identify the risks, and make recommendations with regards to how to mitigate these dangers. The safety audit should be carried out once the spring run-off is over, and the flows are more normal.

We have also expressed concern over the impact that construction will have on snowmobiling. In her decision letter, the Director states:

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.

This statement contradicts itself, as in the first part of the quotation above, the Director states that discussions on this matter are already progressing, while in the latter portion, she states that the proposal for a new bridge is "in its preliminary conceptual stage with the Township".

In fact, the TML Council has rejected any discussion on this entire matter until the larger issue surrounding the North Bala Falls project has been concluded. In any event, it is really an issue between the Muskoka Snowmobile Region and TML, not the proponent. It is our belief that the proponent is trying to create an enhanced level of community support for its project by offering to donate funds to help the snowmobile club acquire a new bridge.



At best, this is confusing, and shows that the information relayed to the Director from the proponent is wrong.

In conclusion, it is our opinion that the proponent has ignored the many risks associated with the project and has failed to mitigate them. For this reason, we ask that you require an individual environmental assessment to be undertaken.

Impact on Boating Activities

Boating and Bala are synonymous. Almost everyone has a boat, and uses it for transportation to Bala, tying up at the Town Dock. Thus, access in a safe manner to both the upstream and downstream docks is a critical concern to us all. These concerns were raised in our request letter.

In the decision letter, the Director states:

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. Transport Canada (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.

This statement clearly indicates that the risk levels will increase due to the proposed project. That is an acknowledgement that our concerns are correct. However, they are not addressed at all by the proponent or by the Transport Canada review of the project.

Booms will not keep swimmers out; booms might keep power boaters out, but will do little for the curious boaters in canoes and other "human powered craft". The boom designs are concave when we believe they should be convex. Concave booms will not make it easy for those boaters pushed up against them to pull or paddle off to safety along the shoreline. This is especially true when water is flowing at high rates of speed. In addition, the booms themselves will create safety hazards when it becomes necessary to perhaps use a boat to rescue those in distress and, especially, a swimmer who gets pulled towards the intake grate. This facility will be remotely controlled. How will a remote operator be informed to shut the facility down, so that a rescue can be undertaken? How long might that communication process take, as rescuers would be slowed down while someone tries to phone an operator in a remote location?

Transport Canada (TC) is not in the risk assessment business when it comes to water safety. Their expertise is in navigational issues, and, not in rescue matters. Rescue matters are the domain of the Canadian Coast Guard (who do not serve Muskoka) and the local emergency staff of the OPP and local fire departments.



It is interesting to note that the proponent does not appear to have spoken or researched the safety and rescue matters with either of these organizations. Therefore, TC's report should **not** be considered as the definitive report on water safety in the vicinity of the North Bala Falls.

We also disagree with the TC suggestion that tailrace flows will eliminate the "swirl" effect in the area immediately below the facility. This past winter, the ice in this area turned slowly in a counter-clockwise direction whenever there was water flowing through the South Dam and the North Dam. All that will happen, if the tailrace is built as proposed, is that a portion of the total flow will be directed into a third outlet stream. This will not stop the swirling and, therefore, will not improve the safety below the North Dam.

It is our conclusion that water access to town docks will be negatively impacted by the proposed project. In our opinion, the proponent should be required to examine in more detail those impacts, and propose a mitigation strategy, especially for land owners whose docks are closer to the North Bala Falls than the Town Docks.

Public Access and Portaging

We are concerned about the impact of the proposed project on public recreational access to the North Bala Falls from both Margaret Burgess Park and Burgess Island. To assist you in understanding where these two locations are, please refer to Picture 12.

The current portage route crosses Highway 169 and then goes down onto Burgess Island. The distance is short and very convenient for children with heavy packs and while carrying canoes. The distance will be about 100 metres.

The proposed portage is much longer, over 500 metres across Highway 169, down Portage Street and then onto the Town Dock. This is a lengthy distance for children to go with little supervision. The proponent also suggests that a shorter portage will be available beside the proposed facility. In our opinion, this shorter distance is the least desirable route. It will undoubtedly require canoeists to re-launch immediately adjacent to the tailrace, where the currents will be at their most extreme.

Public access to the water will also be negatively impacted by the proposed structure. We believe this because:

1. Pedestrians will be encouraged to view the river from the top of an industrial facility. Such a facility is not able to replace a walk down to the shoreline.
2. Walking down to the shoreline, assuming the proponent's liability insurer permits that to happen, will be extremely noisy. On one side of the structure, there will be loud, high speed ventilation fans. The other side will have a walkway, but all of the "old growth" trees will have been replaced with samplings and seedlings which will take many years to grow. Overall, this is not a hospitable setting, in comparison to what we have presently.
3. Access from Margaret Burgess Park might or might not be possible. In our opinion, the proponent's liability insurer might exclude pedestrian traffic due to fears related to "slip and slide" injuries incurred while walking down the rocks. The proponent would be the one controlling total access to the park and the path over the rocks.



For these reasons, we firmly believe that you should reject the proponent's ESR and require that an individual environmental impact assessment be undertaken.

Economic Impact

This is one of the most serious issues facing the community and the TML area.

Initially, the ESR did not contain any substantive data on the economic impacts which the proposed project might have on Bala, the Township and the District. After much debate and pressure exerted by taxpayers on the former (prior to the 2010 elections) TML Council and the MoE EAB staff, the Director forced the proponent to conduct a study. See Attachment D.

The Economic Impact Study (EIS) was undertaken at the wrong time of the year (September), after the end of summer, and the usual departure of cottagers. This study was the subject of much ridicule and criticism by all concerned, except for the proponent and the MoE EAB staff. In fact, it appears that the MoE EAB staff is accepting the report as valid. This is evidenced by how the Director refers to the EIS in her decision letter. She states:

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.

The EIS concluded that although the Project may lead to short-term minimal negative economic impacts during the 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.

Following the presentation of the proponent's EIS, the community was deeply troubled by its results. We are fully aware that this EIS is inaccurate and incomplete, and was not correctly researched or conducted. Quite honestly, we are astounded and cannot understand why the MoE EAB staff would be accepting of this report.

As a result of its own serious concerns about the report, TML commissioned a peer review of the proponent's study. Please see Attachment E.



Perhaps, the most telling conclusion of the peer review is contained on the last page, where it simply states:

"In conclusion, it is our opinion that the economic impact assessment prepared by C4SE, as set out in their November, 2010 report, does not adequately identify and assess the potential economic effects of the proposed project. For this reason, the report cannot be used as a basis for concluding that the project will have a positive effect on Bala, the Township of Muskoka Lakes or the District of Muskoka. It is our recommendation that the economic impact analysis be revised to address the concerns identified in this peer review in order to produce a comprehensive assessment of the economic impacts."

We ascertain and propose that the proponent's report be disregarded in totality, and that no decision on the project should ever be undertaken based upon the results of such an incomplete and poorly researched piece.

In addition to our opinion regarding the proponent's Economic Impact Study, we wish to point out that the proponent has refused all attempts to discuss completion bonds, indemnification bonds for damages, or any form of damage deposit to guarantee that Margaret Burgess Park, if used, will be returned to its original state. Nor is the proponent willing to discuss any bonds to guarantee that, once the lease period is over, the entire site will be remediated.

In conclusion, we ask that you accept our request that an individual environmental assessment study be undertaken prior to ruling on the possibility of this project moving ahead.

Noise

The matter of noise remains a serious concern for our members.

The members of MRPOA strongly support the comments of SaveTheBalaFalls.com. We believe that their points are valid points. It is our belief that the proponent has not adequately addressed this issue, and that an individual environmental assessment is essential.

Esthetics

The proponent has yet to release detailed construction drawings that address community concerns around the matter of exterior esthetics and landscaping, etc. In fact, as of this day, the proponent's web site still has a drawing that **does not** in any way match or relate to any of the drawings or sketches they have been exhibiting at TML Council meetings for the past 5 months. It looks like this:



The concept of forming a public advisory committee is not new. MRPOA actually proposed one in 2009, and TML proposed one in 2010. In both cases, the proponent refused to participate. Based upon the results of the “scenic flow committee”, we would not be at all convinced that, if formed, this committee would serve any purpose other than for PR by the proponent. As “actions speak louder than words”, the proponent has earned no credibility with regards to community committees.

On a related matter, we have noted discrepancies in the required flow rates between those stated by the proponent and those indicated in the Muskoka River Watershed Management Plan (MRWMP).

The proponent indicates 4 cubic metres per second is required for the Burgess Generating Station and 1 cubic meter per second is required to flow over each of the North and South Bala Dams. The balance would be permitted to pass through the proponent’s proposed facility. The MRWMP indicates 4 cubic metres per second for the Burgess Generating Station but 3 cubic metres per second for the North and South Bala Dams. This would leave less water for the proponent to use to generate electricity. While this doesn’t seem like a big difference, it could be in summer, when the flows are very low, requiring a total of 10 cubic metres per second to go over the dams and through the Burgess Generating station instead of a total of 5 cubic metres per second as the proponent suggests. This might make the difference between producing electricity and not producing electricity for the proponent.

Therefore, we hereby request that you require an individual environmental assessment be undertaken before deciding on this project.

Fish Habitat

There are many anglers within our membership. Some of those members have spent years rehabilitating the same walleye spawning beds that the proponent is prepared to damage, and perhaps, in irreparable ways.



We, as an organization, lack the monetary resources and technical skills to speak in a scientific manner about this matter.

MRPOA has recently been made aware of a report, as yet unpublished, entitled:

"The Demise of American Eel in the Upper St. Lawrence River, Lake Ontario, Ottawa River and Associated Watersheds: Implications of Regional Cumulative Effects"

The authors are scientists with diverse backgrounds, who share the common goal of determining the impact of dams and hydro-electric generating facilities on fish. The authors are:

1. Rob MacGregor - Ontario Ministry of Natural Resources (retired)
2. Tim Haxton – Ontario Ministry of Natural Resources
3. Lorne Greig - ESSA Technologies Ltd.
4. John M. Casselman - Queens University
5. John M. Dettmers - Great Lakes Fishery Commission
6. William A. Allen - Heritage One
7. David G. Oliver - Skylark Information Systems Ltd.
8. Larry McDermott - Plenty Canada

The scientists selected the American Eel to represent those species that are frequently found in river systems that have multiple dams and small hydro-electric generation facilities located on them. In the report, the scientists state:

"Our objective is to describe the cumulative anthropogenic effects that have impacted American Eels over the past century and examine the potential impacts of cumulative effects on an entire species if they are not considered and adequately addressed."

The report examines the mortality rate differences between fish passing through the sluices versus passing through the generator. Further, they examine the differences in mortality rates for turbines of different type, design and sizes. In this regard, the report states:

"However, for the majority of the year, water is not spilled at most dams, so depending on timing of migration, this percentage can vary (e.g., eels encountering a dam that passes most of the water through turbines and spills only during freshets may in fact have a 95% chance of passing through the turbines and only a 5% chance of passing over the sluice gates). Likewise, turbine-induced mortality can vary depending on turbine design and timing of migration (Larnier 2001). Turbine mortality has been estimated for the facilities on the St. Lawrence River to be between 16 and 26.5% (McCleave 2001), whereas turbine mortality for some smaller facilities has been estimated to be between 16 and 25% one year, and 25 and 34% in another (Winter et al. 2007). Turbine mortality for even smaller utilities (with smaller faster spinning turbines) could approach 100% because of the small size of the turbine, distance between blades, and speed of the turbine (Haro et al. 2000). We incorporated into the analysis the variability in turbine mortality based on different design and overall size of each facility."

We would conclude from the comments above that the proposed North Bala Falls generating station would be in the category ranked as the most dangerous to fish and, therefore, likely to



have a mortality rate very close to 100%. Once the spring freshet is over, the majority of the water will not pass over the North or South Bala Falls Dams, but will pass through the turbine.

The study goes on to say:

“Environmental Effects on Recruitment

Environmental effects on recruitment of many fish species are well known. In the case of American Eel, cyclic or more permanent climate-driven effects on ocean currents or on hatching and survival can affect larval drift and abundance patterns, inducing fluctuations in recruitment levels to continental waters (Bonhommeau et al. 2008; Freidland et al. 2007). Less favourable environmental conditions could further exacerbate the declining sustainability of the species. It is therefore important to sufficiently mitigate anthropogenic mortalities to ensure adequate escapement of quality of spawners. This will help the species to exhibit resilience to periods of less favourable environments (Verreault et al. 2003; MacGregor et al. 2009; Venturelli et al. 2010).

Under favourable environmental conditions, strong recruitment events for many fish species can occur at modest adult stock sizes. For example, Lake Erie walleye collapsed due to very high commercial fishing mortality in the late 1960s-1970s (Hatch et al. 1987). After a period of multilateral closed fishing occurred, beginning in 1970, mature female walleye biomass accumulated and in 1977 a record year-class was produced; this year-class was managed carefully to ensure its contribution to recovery (Hatch et al. 1987). The species is now rehabilitated in Lake Erie and supports one of the largest freshwater commercial fisheries in the world.”

The proponent has failed to outline any meaningful mitigation plan to ensure that the fishery in the Moon River and those waters beyond the Moon River, i.e. Georgian Bay and Lake Huron, will be protected from the negative impacts of the proposed project. Proper and effective mitigation is the key to sustainable fishery. As the report states:

“There is a need to begin strategic implementation of mitigation options soon. Under current approvals processes, it often takes many years to negotiate, set conditions and implement mitigation at hydro-electric facilities. Given the precarious status of eels in this system, beginning the process of strategic mitigation now is important to take advantage of positive recruitment events in the future.”

The Ontario Federation of Anglers and Hunters have raised concerns about the North Bala Falls project. Despite this, the proponent and the Director are relying upon the word of the Department of Fisheries and Oceans (DFO) staff from Parry Sound to assess the possible damage. To us, this is disconcerting as we have not heard at all from the fisheries experts at the MNR. Given that this is a provincially regulated project for the most part, why have the fisheries experts from the MNR not been involved? Is there possibly an internal conflict within the MNR, between the scientists and the operational/policy personnel, that is preventing the scientists from coming forward with information that might “complicate”, or even prevent the off-loading of the North Bala Falls location onto the shoulders of a private developer?



In her letter of decision, the Director states:

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. Fisheries and Oceans Canada (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.

Regardless of internal politics, we strongly believe and assert that you require an independent assessment of fishery impacts to be conducted by MNR and other recognized fishery experts, before making a decision regarding this project. Providing monetary compensation for damage to the fish habitat is unacceptable. Permitting the proponent to proceed and develop the mitigation strategy "on the fly" is also unacceptable; hence, our request for an individual environmental assessment.

Public Safety

As residents of Bala and frequent users and visitors of the North Bala Falls site, our members have grave concerns regarding public safety at the proposed site.

A portion of our thoughts have already been brought forward in the section of this document entitled **Recreational Use of North Bala Falls.**

In addition, we are disappointed that the Director is allowing the proponent to abdicate its moral responsibility to mitigate the matter of public safety around its proposed facility.



In her letter she states:

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.

By accepting the proponent's views, the Director is allowing the proponent to evade its responsibilities regarding public safety.

The proponent's designs will increase water speeds in the vicinity of the intake grate. The designs will also permit high speed water to be discharged downstream much closer to where the public recreates. This means an increase in risk to those visiting the facility.

It is incomprehensible that the proponent has no emergency plan, and will allow the facility to operate as required, and be controlled by persons in a remote location. The proponent claims that there will be no fences, sirens or flashing lights. How will those around the site know when high speed water is about to be released, or when the water in the area of the intake will increase in speed, and maybe, up to speeds possibly too extreme for most swimmers?

It is unacceptable to reasonable people that the proponent would be permitted to totally abdicate any responsibility, by stating that log booms and "The Railway Act" will safeguard the community.

It is our request that you require this project to undergo an individual environmental assessment before reaching any decision on allowing such a project to move forward.



Land Lease Agreements

In her letter of decision, the Director states:

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.

We would conclude from these statements that the Director believes that the proponent is in discussions with both TML and the District of Muskoka on land lease agreements.

If this is what she believes, then she is incorrect. The facts are:

1. TML was only presented with the application at the Council meeting in February 2011. No discussions have taken place.
2. The proponent did meet with the District Public Works committee in March 2011, but to date, there have been no discussions regarding a lease.

In addition, to definitively state above, that lease discussions have been underway since 2008, is also wrong. There has been much discussion on the entire topic of the North Bala Falls project, especially since the summer of 2009; but, no lease discussions have taken place. The proponent has other conditions to fulfill to meet the requirements of the resolutions passed by both TML and District of Muskoka councils. It is our understanding that those conditions have yet to be fulfilled.

What has been happening in Muskoka, at the TML Council and at the District Council is:

1. Councillors are trying to learn more about what the project actually involves.
2. Community groups, such as MRPOA, have been delegating at both TML and District Council meetings, to ensure that Councillors are aware of our grave misgivings regarding this project.
3. Councillors have been dealing with their own possible conflicts of interest.

We conclude that to suggest or accept that lease agreements are currently being negotiated, is a very significant error.



Finally, while the matter of the leases is possibly outside the precise purview of the ESR and the EA process, the fact that the proponent might be supplying the Director with incorrect or misleading information is an important factor.

For these reasons, we assert that it is imperative to require an individual environmental assessment be undertaken before allowing this project to proceed.

Advantages and Disadvantages of Project

In closing, we are offering the following brief analysis of the advantages and disadvantages of this project.

Advantages

Limited short-term jobs for local workers
Estimated to be 10-14 workers

Minute increase in electricity for Ontario
estimated to be 0.0167%

Minor increase in turbine mfg industry
in Ontario

Possible saving by MNR

Disadvantages

Significant short & long-term
negative economic & social impacts on
Bala, TML & District

No tax revenue to TML or District for
first 11 years of operation while
TML & district will have to incur costs

Increase in risks for boaters,
anglers & swimmers

Disruption, inconvenience & permanent
damage to business owners, residents &
tourists

Delays to emergency service operations

Irreparable damage to fish habitat

Removal of mature trees

Creation of traffic bottlenecks

Final Conclusion

This is a project that not one person in Bala actually favours. It is a project that is being forced upon us.

We say that a few residents are supportive of the current project simply because they are opposed to the Site 1 Option, which is not a part of the debate at present.



Bala is a small village in "cottage country" and is completely dependent on the summer tourist season. Citizens, full-time and seasonal, understand that Ontario needs more electrical energy, and that the energy must be generated by the most environmentally-friendly means possible.

However, it is unjust and unreasonable to have a project forced upon us in this manner.

The proponent has no connection to our community. The owners are investors from Toronto, to whom a 40 year project, such as this one, offers an excellent opportunity for both an income stream guaranteed by the Province of Ontario and a significant capital gain when they sell the facility. And, they will sell it once it is running and has a financial track record that can be measured.

The proponent never actually intended to build on the land offered by the MNR. So, the proponent showed the community an ugly, concrete "tomb-like bunker" that the proponent actually opposed. When we replied "No thanks", the proponent offered to move the facility to a larger alternative location, dependent upon getting a lease from the District government. We, the MRPOA community, find it interesting that both the District and TML Councils "took the bait" in 2008, and agreed to consider the proponent's offer. How convenient that, in doing so, the planned facility became larger, able to produce more power and, thus, generate more income and a bigger capital gain in the future.

The proponent has never released the final detailed drawings of what the proposed facility will look like; yet, they are badgering and bullying both District and TML Councils to obtain approval to proceed by negotiating lease agreements. One would never carry on this way in Toronto or other big cities. In Bala, the proponent is trying to toss its weight around to get its way without any concern for the community's future well-being.

The proponent tried to influence our municipal elections last fall by buying ads in local newspapers. The North Bala Falls issue was the hottest one in the Muskoka Lakes Township election. The proponent could see that the incumbent Councillors were in trouble, and risking defeat. What better way to get your way than to try to show voters that the proponent's project was good for the area (ie. support those Councillors who support the project). That strategy did not work, as all but one incumbent Councillor was defeated, and the mayor was replaced. Now, the proponent has been creating arbitrary deadlines in a bid to force the newly elected TML and District Councils to speed up the process and sign leases. The proponent has even resorted to advising both Councils that they face financial penalties if the project were not up and running by ongoing, ever shifting deadlines.

Why should our municipal councils be responsible if the proponent fails to meet deadlines they created for themselves? Perhaps, it is just poor planning by the proponent!

We would like to ask you to simply cancel this project, as you did with the project in Oakville. Doing so would be a true indication that "doing the right thing" does matter.



At this point in time, the issue is to ask that you reverse the Director's decision, and for you to require an individual environmental assessment, with conditions requiring the proponent to be open and honest, and much more receptive to local input.

Sincerely,

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