

September 2, 2011

The Honourable John Wilkinson
Minister of the Environment
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Toronto, ON M7A 2T5
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Dear Minister Wilkinson:

Re: Proposed Bala Falls Hydro-electric Generating Station and Species At Risk

Summary

A report recently completed for the District Municipality of Muskoka has determined that the shoreline area both upstream and downstream of the site for the proposed Bala Falls hydro-electric generating station is a high potential area for the Eastern Musk Turtle, which is designated by the Ontario Ministry of Natural Resources (MNR) as a *Species At Risk*.

Therefore, it is illegal to harm, harass, possess, buy, sell or kill Eastern Musk Turtles, and this species is also protected in Ontario under the *Fish and Wildlife Conservation Act*.

- We note that Section 4.1 of Table B1 of Appendix B of the proponent's environmental screening report states that "*No species listed on ... the Ontario Endangered Species Act within area affected by project*". This is **yet another statement from the proponent which is simply not true**, as the *Species at Risk in Ontario* List includes the Eastern Musk Turtle.
- In fact, Section 2.1.9 of the proponent's environmental screening report reports that the MNR has noted that the Musk Turtle is found downstream. However, apparently **without any actual study**, the proponent states "*A number of reptiles (i.e., snakes and turtles) ... are present in the Muskoka River watershed. However, given the general lack of suitable terrestrial and wetland habitat within the study area, populations in the vicinity are likely limited to very common species such as American toad.*"

This statement is a serious cause for concern as the Eastern Musk Turtle does not require a wetland habitat, so there appears to be **no justification for the proponent's statement**.

We therefore request that the proponent properly study the shoreline habitat of the proposed site so that the public can be assured that *Ontario's Endangered Species Act* would not be contravened.

Detail

- 1) Ontario's *Provincial Policy Statement* (at <http://www.mah.gov.on.ca> | Land Use Planning | Provincial Policy Statement) notes that:
 - "*Ontario's long term economic prosperity, environmental health and social well-being depend on protecting natural heritage ... and cultural heritage ... for their economic, environmental and social benefits. Accordingly ... Natural features and areas shall be protected for the long term.*"

- *“Healthy, active communities should be promoted by ... providing for ... publicly-accessible ... natural settings for recreation, including parklands, open space areas, trails and, where practical, water-based resources and providing opportunities for public access to shorelines ...”*
- *“Significant built heritage resources and significant cultural heritage landscapes shall be conserved” and “Development and site alteration may be permitted on adjacent lands to protected heritage property where the proposed development and site alteration has been evaluated and it has been demonstrated that the heritage attributes of the protected heritage property will be conserved.”*

That is, it is a provincial mandate that Ontario’s natural heritage and natural settings be conserved and protected, but the proponent has not demonstrated they would do this.

- 2) Accordingly, the District Municipality of Muskoka states that *“A review of Muskoka’s natural heritage has been initiated, beginning with a natural heritage review of Muskoka’s urban centres and a report identifying areas of high potential for species at risk habitat.”*

The first of these two reports is attached to this letter, and both can be found at <http://muskoka.on.ca | Services | Planning | Natural Heritage Review>.

These reports were prepared specifically for the District Municipality of Muskoka as part of its Official Plan review process, as is directed by the *Provincial Policy Statement*.

- a) The report *Species At Risk: Potentially Suitable Habitat Mapping* notes *“as initial steps in a comprehensive Natural Heritage Strategy, a map be developed that identifies areas of Muskoka’s landscape that demonstrate high potential for Species at Risk habitat and that a more specific review of natural heritage in Muskoka’s urban centres be undertaken.”* This first report provides this mapping, and indeed many areas within the District are shown to be potentially suitable habitat for the many identified Species At Risk.
- b) The second report is entitled *Muskoka Official Plan Review Background Study: Urban Centres Natural Heritage Review* and examines the urban centres in detail and notes:
- *“Within the urban centres it is the intent to direct development away from environmental features including significant natural heritage...”*
 - *“These results will provide valuable background information on which to build a Natural Heritage Strategy for Muskoka and provide input for lower tier municipal approaches to natural heritage protection as planning proceeds.”*
 - *“These potential areas are meant to help build a natural heritage system for Muskoka and represent the ‘preliminary natural heritage system’ recommended for settlement areas in the Second Edition Natural Heritage Reference Manual (MNR, 2010).”*
 - As shown in Appendix A to this letter, the report notes that the shoreline both downstream and upstream from the site of the proposed generation station has a high potential of being a habitat for the Eastern Musk Turtle.
 - Furthermore, the report states: *“Recommended approach for site-specific survey: Nocturnal surveys in shallow quiet waters”*.

Therefore:

- The municipality has a provincially-mandated obligation to protect the natural heritage of the area.
- The proponent has not completed the proper site-specific survey (that is, a nocturnal survey) to confirm whether the habitat for the Eastern Musk Turtle would be harmed or destroyed by the construction or operation of the proposed generating station.

3) The Ministry of Natural Resources' *Natural Heritage Reference Manual* states that:

- a) *"The manual contains considerations and recommendations for making informed and responsible decisions, reflecting provincial interests that include the protection of ecological systems, the conservation and management of natural resources and the promotion of development that is designed to be sustainable. To protect the ecological function and biodiversity of natural heritage systems and the health and integrity of natural heritage features or their associated ecological functions for the long term, planning authorities should apply decision-making approaches that incorporate the precautionary approach where appropriate."*
- b) *"... prior to planning and development approval, there should be an appropriate level of evaluation of natural features that are present..."*.

Therefore, it is a provincial requirement and a directive from the MNR that the natural heritage be protected through municipal planning.

4) We note that:

- a) The MNR's *Species at Risk in Ontario List* (at <http://mnr.gov.on.ca> | Species at Risk | Species at Risk in Ontario List) currently designates the Eastern Musk Turtle as *"Threatened, a species that is at risk of becoming endangered in Ontario ..."*.
- b) The Royal Ontario Museum / MNR web site Ontario's Species at Risk (<http://rom.on.ca/ontario/risk.php>) notes that for the Eastern Musk Turtle *"Under Ontario's Endangered Species Act 2007, it is illegal to harm, harass, possess, buy, sell or kill Eastern Musk Turtles."* and *"This species is also protected in Ontario under the Fish and Wildlife Conservation Act."*

Therefore, the Eastern Musk Turtle is a Species at Risk in Ontario.

Conclusion

The proponent has not properly surveyed for at least one Species at Risk which has been identified in a report prepared for the District Municipality of Muskoka to have habitat both downstream and upstream of the proposed generating station.

Additionally, the municipality has a provincially-mandated obligation to protect its natural heritage, and should do so through planning and other methods available to it.

In summary, as the proponent's environmental screening report has again been shown to:

- Include incorrect and unjustified statements.
- Not provide the information required to show the negative environmental impacts would be adequately mitigated.
- Not answer the reasonable and relevant questions being asked by the public.

We request that this project be elevated to require an individual environmental assessment.

Sincerely,

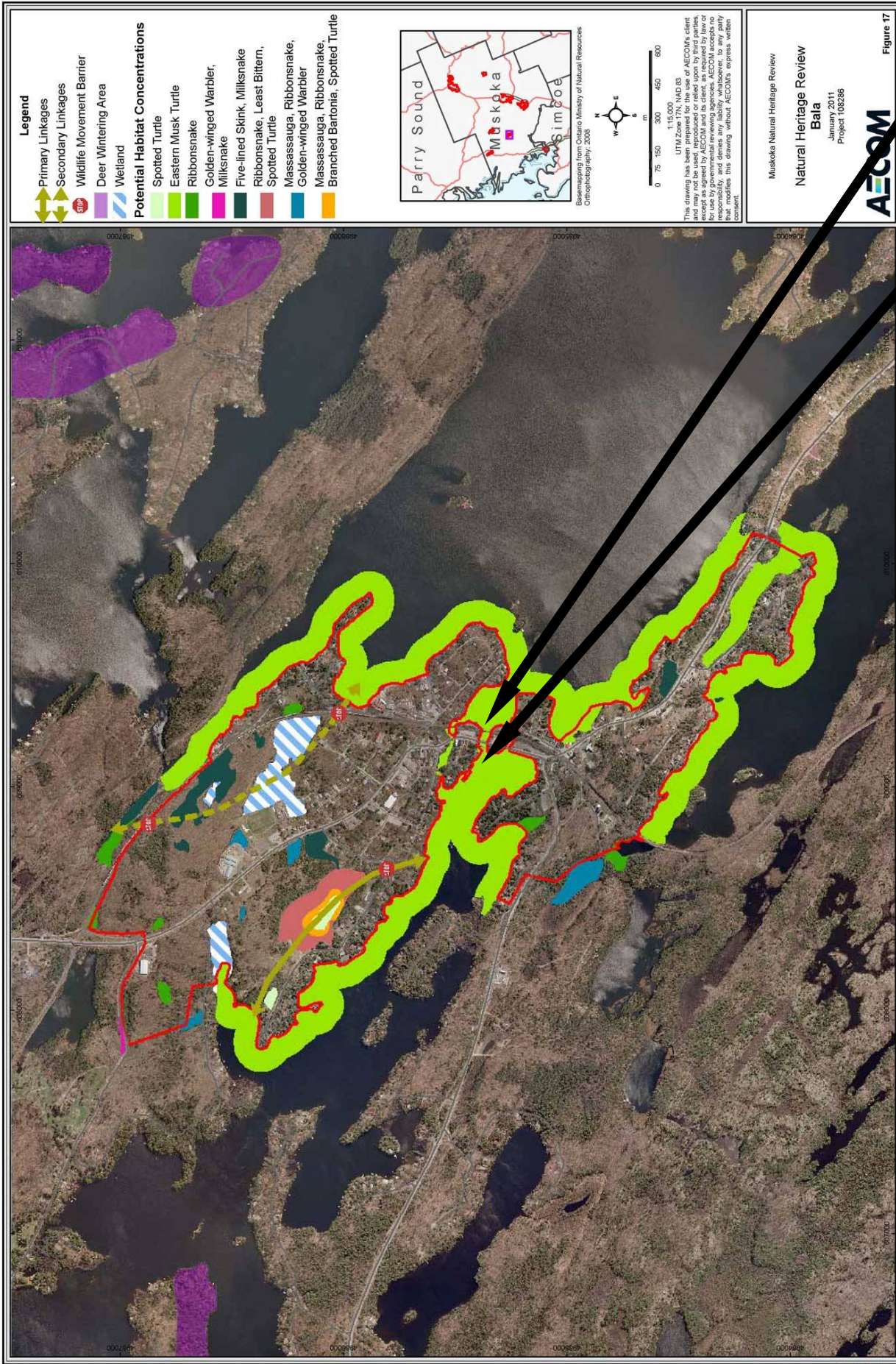
A handwritten signature in cursive script that reads "Mitchell Shnier".

Mitchell Shnier, on behalf of SaveTheBalaFalls.com

Cc: A. Sanzo, Ministry of the Environment, Environmental Assessment and Approvals
Branch, Adam.Sanzo@ontario.ca

The Honourable Linda Jeffrey, Minister of Natural Resources,
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The Honourable Tony Clement, MP for Parry Sound – Muskoka, and President of the
Treasury Board, Clement.T@parl.gc.ca



Potential Habitat Concentrations map for the Bala Area, showing the Eastern Musk Turtle habitat both downstream and upstream of the proposed hydro-electric generating station (from: Muskoka Official Plan Review Background Study: Urban Centres Natural Heritage Review, April 2011).