

March 4, 2013

The Honourable David Oraziatti
Minister of Natural Resources
Whitney Block, 6th Floor, Room 6630
99 Wellesley Street West
Toronto, ON M7A 1W3

Phone: 416 314-2301
E-mail: DOraziatti.mpp@liberal.ola.org

Dear Minister Oraziatti:

Re: Proposed Hydro-electric Generating Station at the Bala Falls

Summary

Congratulations on your appointment as the Minister of Natural Resources.

We would like to bring the following to your attention as part of your Ministry's consideration of the Lakes and Rivers Improvement Act location approval for the proposed subject project:

- As was requested by the MNR, we have attached historical evidence that the traditional portage, which was established before the initial Crown land patent, would be obstructed by the proposed project. Such obstruction is specifically not allowed by the Public Lands Act.
- The construction of the proposed project would create an unacceptably-high risk of flooding Lake Muskoka.
- The cycling operation of the proposed project would be extremely dangerous to the long-established and important in-water recreational area at the base of the north falls.

We therefore suggest that due to serious legal and public safety issues, the location of the proposed generating station is unacceptable and should not be approved.

Detail

We understand that under Section 14 of the Lakes and Rivers Improvement Act, the MNR would need to provide location approval for the proposed subject project, and we note the following four major concerns:

1) Traditional Portage

In response to an August 23, 2012 letter from Ms. Anne Collins (MNR's Planning & Information Management Supervisor, Parry Sound District) in which she claimed there was "... *insufficient evidence to show there is a portage route ...*", on September 4, 2012 we provided such evidence.

Subsequently, on September 17, 2012 Ms. Collins sent a letter in which she noted our evidence did not "*not establish that there was a portage route in place prior to the initial*

Crown patent". In response we have attached this further evidence to this e-mail, please note the following:

- a) Pages 1-2, 6-10, and 15-21 of the attached file "SaveTheBalaFalls Review Request 20121015", which is our Request for Minister's Review, October 15, 2012, provides this evidence.
- b) This evidence shows that the subject proposed project would obstruct the traditional portage, and this is not allowed according to Section 65(4) of the Public Lands Act.
- c) Furthermore, we note the Public Lands Act does not allow transferring the obligation to provide a portage to other land owners.

2) Risk of flooding

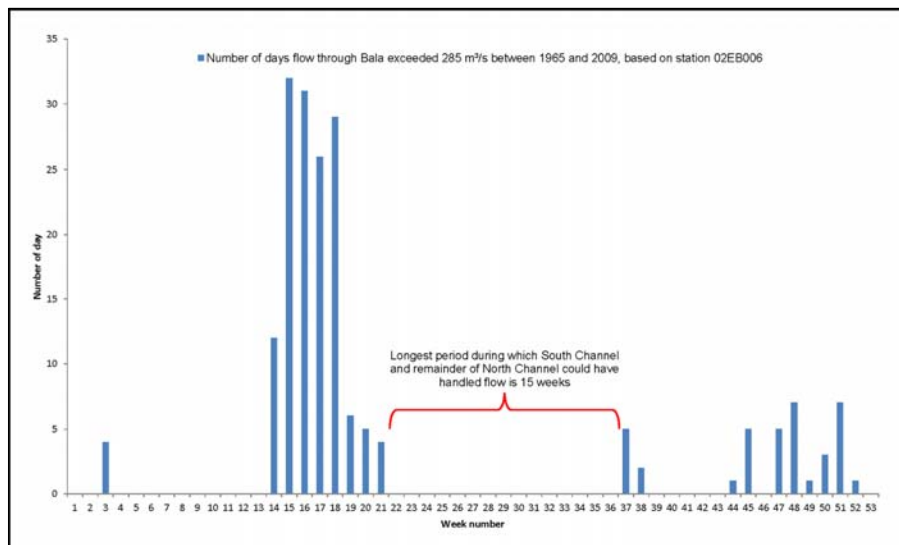
We have determined that during construction of the proposed station, the flow capacity of the north channel would be reduced to approximately 33 m³/s as a result of the temporary cofferdam required.

Given the 252 m³/s flow capacity of the south channel, we have analysed the last 44 years of Moon River flow data to determine which weeks of the year have required less than (33 + 252 =) 285 m³/s of flow capacity through Bala, as this is what would be available during the proposed construction.

As shown in the figure below, there has been at most a 15-week period when the flow from Lake Muskoka to the Moon River could have been handled safely according to the proponent's construction requirements.

As this would not be enough time for the required construction, and as the cofferdam could not be quickly removed if there was a high-flow event, the construction for the proposed project would create an unacceptably-high risk of both flooding Lake Muskoka and of washing-out the highway bridge over the north channel.

Furthermore, we understand that during construction, the responsibility for maintaining water levels remains with the MNR, so the MNR would bear the liability for the risks taken by this private developer.



3) Damage to north dam or highway bridge due to blasting

The proposed project would require blasting and excavation 40'-deep into the bedrock directly adjacent to both the north dam and the highway bridge supports, and damage to either would create major risks to public safety. The proponent has no employees, no assets, no operations, and refuses to post a completion bond.

Therefore, the required construction would present substantial risk to life, private property, and public property for the location proposed.

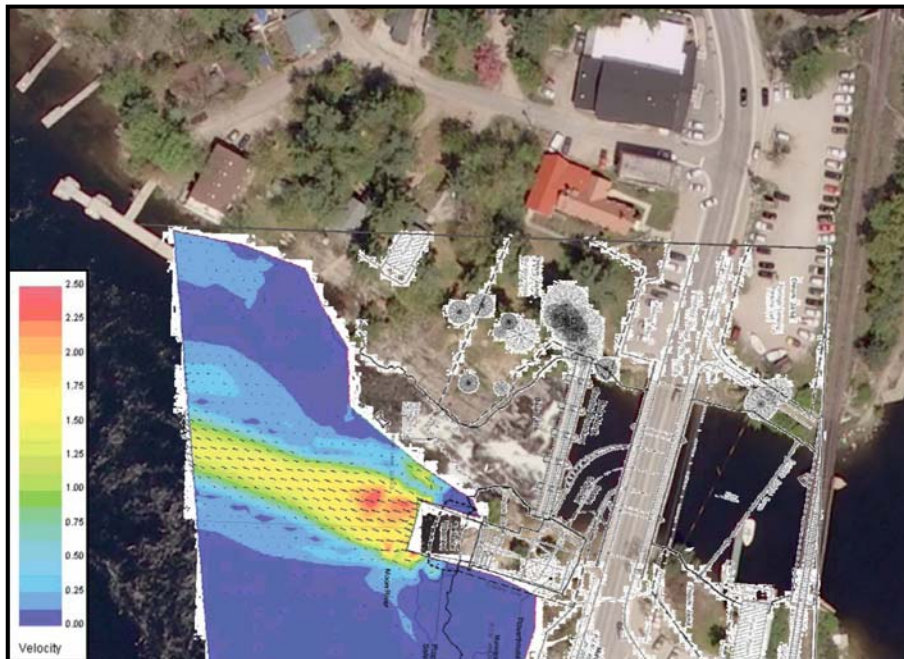
4) Danger to in-water recreation

As shown in the figure below, the dangerously fast and turbulent water exiting the tail race of the proposed generating station would be just metres away from the area at the base of the north falls where, for over 100 years, families have splashed and played in the water.

This creates many concerns, such as:

- a) The areas that would become dangerous to swimming as a direct result of this proposed project would be outside of the proposed safety boom – the visiting public would not know what areas are dangerous.
- b) The area in front of the proposed station is not a “no swimming” zone, and the MNR has no authority to claim this or impinge on others’ riparian rights – for example, those of the dock owners to the north.
- c) The proponent’s own environmental screening report stated this design is to be avoided as *“The tailrace of the powerhouse would be located in close proximity to the falls which could cause safety issues and public concern.”*

We therefore request that an organization competent in assessing impacts on in-water recreation provide a report to the public.

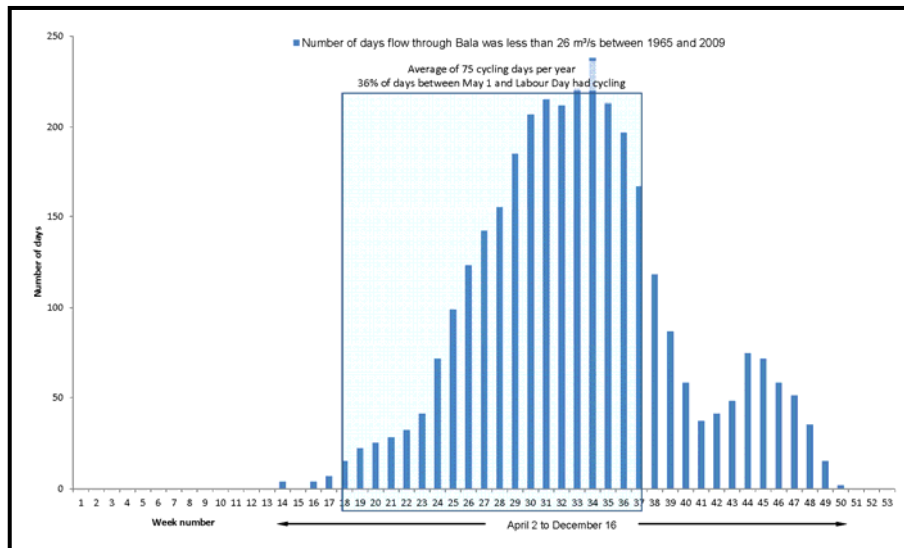


Furthermore, as shown in the figure below, the operation of this proposed station would be required to be cycled, so this remotely-controlled station could start at any time.

We have analysed the last 44 years of Moon River flow data and determined that this dangerous cycling operation would have occurred on more than 1/3 of summer days (that is, between May 1 and Labour Day).

This would create a treacherous situation for those visiting the Bala falls as this cycling operation would most likely begin at mid-day:

- a) As required for the proponent to receive the Feed-In Tariff peak incentive.
- b) Unfortunately, this is when people would most-likely be in the water, right at the trail race.



Conclusion

The location proposed for the proponent's Alternative 1A would:

- Illegally obstruct the traditional portage.
- During construction, present an unacceptably-high risk of flooding Lake Muskoka and washing-out the highway bridge – and this would be MNR's liability.
- During operation, be extremely dangerous to the public both due to the proximity and direction of flow of the turbulent water, and especially due to the required cycling operation, which would begin at mid-day, on more than 1/3 of summer days.

We therefore request that the proponent's proposed Alternative 1A be denied location approval.

Please respond with the Ministry of Natural Resources' evaluation of these issues.

Thank you.

Sincerely,

Mitchell Shnier, on behalf of SaveTheBalaFalls.com

Cc: Anne Collins, Planning & Information Management Supervisor, Parry Sound District, Ministry of Natural Resources, Anne.Collins@ontario.ca