

Ministry of the Environment

Office of the Minister

77 Wellesley Street West
11th Floor, Ferguson Block
Toronto ON M7A 2T5
Tel.: 416-314-6790
Fax: 416-314-6748

Ministère de l'Environnement

Bureau du ministre

77, rue Wellesley Ouest
11^e étage, édifice Ferguson
Toronto ON M7A 2T5
Tél. : 416-314-6790
Téléc: 416-314-6748



ENV1283MC-2012-3243

JAN 23 2013

Dear concerned citizen:

Thank you for your interest in Swift River Energy Limited's proposed North Bala Small Hydro Project addendum (Project).

You requested that the Minister of the Environment review the decision of the Director of the Environmental Assessment and Approvals Branch (Director) that an individual environmental assessment is not warranted for the Project. I am taking this opportunity to inform you that I have decided to confirm the Director's decision.

In making this decision, I have given careful consideration to the Environmental Screening Report addendum, the provisions of the Guide to Environmental Assessment Requirements for Electricity Projects, the issues raised in your request, and relevant matters to be considered under subsection 16(4) of the Environmental Assessment Act.

Swift River Energy Limited has demonstrated that it has planned and developed the Project in accordance with the Environmental Screening Process and addendum provisions of the Guide to Environmental Assessment Requirements for Electricity Projects. I am satisfied therefore that the purpose of the 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.

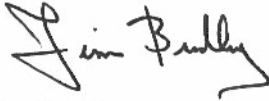
Your concerns together with the reasons for my decision are set out in the attached table. In your appeal, you may have also raised issues that were previously considered in past decisions by either myself or the Director, and that do not specifically pertain to the change in the Project itself. The Guide to Environmental Assessment Requirements for Electricity Projects states that, under the Environmental Screening Process addendum provisions, members of the public can only "request that the modification to the project be elevated to an Environmental Review or an individual EA." As some of your issues do not pertain to the modification of the Project, I am not able to review those issues under this decision making process.

I am satisfied that the issues and concerns have been addressed by the work done to date by Swift River Energy Limited, or will be addressed in future work that is required to be carried out.

With this decision having been made, Swift River Energy Limited can now proceed with the Project, subject to any other permits or approvals required. Swift River Energy Limited must implement the Project in the manner it was developed and designed, as set out in the Environmental Screening Report, and inclusive of all mitigating measures, and environmental and other provisions therein.

Again, thank you for bringing your concerns to my attention, and please accept my best wishes.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Jim Bradley". The signature is stylized with a large, looped initial "J" and a trailing flourish.

Jim Bradley
Minister

Attachment

c: Ms. Karen McGhee, Project Manager, Swift River Energy Limited

North Bala Small Hydro Project addendum,
Swift River Energy Limited

Minister's review of issues raised in the appeals:

Water Management/Water levels/Flows concerns	
<p>In the appeals, issues continued to be raised that as the Project will be located closer to the North Bala Dam, it will cause significant impacts to water flows and levels due to disruption of the function of the North Dam. The appeals state that the Director did not adequately consider the impacts of the temporary cofferdam in the intake area upstream North Bala Dam on Lake Muskoka during high flow events.</p>	<p>As documented in the Director's decision, the Ministry of Natural Resources confirmed through correspondence provided to Ministry of the Environment staff on June 28, 2012 that it is satisfied that the proposed operation of the Project will not significantly impact the lake levels and flows of Lake Muskoka and will continue to be in accordance with the requirements of the Muskoka River Water Management Plan. The Ministry of Natural Resources also confirmed that the North and South Bala dam will remain in operation while the cofferdam is in place, and that typical Lake Muskoka flows occurring during the construction period will be able to pass without disruption while this coffer dam is in place.</p> <p>As the Director and my previous decisions indicated, the Ministry of Natural Resources will be responsible for ensuring Swift River Energy Limited is in compliance with its standards, and that Swift River Energy Limited will be required to obtain Lakes and Rivers Improvement Act approval for the Project. The previous decisions have also confirmed that Swift River Energy Limited will be required to prepare an amendment to the Muskoka River Water Management Plan for inclusion of this additional water control structure (hydroelectric facility), prior to the Project proceeding to implementation.</p> <p>Through the review of the elevation requests, the Director was satisfied that the Project met the requirements of the Electricity Guide for assessing potential impacts to the surrounding water flows and levels. As this issue was reviewed in detail and no new information was presented, I concur with the Director's decision.</p>
Public Safety/Boating Concerns/downstream municipal dock	
<p>In the appeals, concern continues to be raised that as the Project will now direct waters from the tailrace closer to the downstream municipal docks, it will cause negative impacts and will cause</p>	<p>The addendum documentation identifies the revised areas where velocities and flows will be consistently high during operation and where safety booms, signage and/or fencing, will be located. These areas will be inaccessible by people, boats or any other vessels.</p>

public safety concerns for in-water recreation and boating navigation.

As you have indicated, the revised Project location changes the direction of the tailrace waters, such that they will now be directed closer to the downstream municipal docks. Transport Canada reviewed the modifications to the Project in the addendum documentation, and has confirmed in correspondence to the Ministry of the Environment on August 31, 2012, that it does not have any outstanding concerns with regards to potential impacts to navigation as a result of the modified Project. Transport Canada has concluded that impacts on the upstream or downstream municipal docks are not anticipated. The Director's decision indicated that Transport Canada has confirmed that the locations for the upstream and downstream booms have been reasonably placed and the Project will be required to obtain an approval from Transport Canada under subsection 5(1) of the Navigable Waters Protection Act before implementation to ensure that it will not affect navigation conditions during construction and operation.

With regards to swimming, the Director's previous decision addressed the claim that the Project will significantly impact the swimming and recreation that occurs in the area downstream of the North Bala Dam in the Moon River. Transport Canada did not provide any conclusions as to the potential impacts of the Project on swimming. However, the Ministry of Natural Resources concluded previously that the area downstream of the North Bala Dam is currently designated as a "no swimming" zone, and that the Ministry of Natural Resources has the authority to enforce trespassing onto Dam facilities, under the *Occupational Health and Safety Act*. The change in location of the Project does not change the fact that the area of concern with is restricted and should not be used for in water-recreation. Therefore, this issue cannot be considered as a basis for a request for an individual environmental assessment.

Ministry of the Environment staff have reviewed the addendum documentation, in addition to Transport Canada's documentation of its review of the Project, and the Director was satisfied that Swift River Energy Limited has met the requirements of the addendum procedures of the Electricity Guide for assessing potential impacts of the changed

	Project to the surrounding environment with respect to boating safety and navigation. I concur with the Director's decision.
Fish Habitat and Fisheries	
The requesters indicate that the Director did not adequately assess the potential negative impacts to fish habitat and fisheries due to the relocation of the intake, which will now be placed in a different location and the tailrace waters will now be released in a different area of the Moon River.	<p>The Director's decision indicated that Fisheries and Oceans Canada, the regulatory agency for protecting aquatic habitat, confirmed to the Ministry of the Environment on August 3, 2012 that it continues to have no outstanding concerns and that it is satisfied with Swift River Energy Limited's proposed operating regime of the Project with regards to potential impacts on fisheries and fish habitat. In addition, the Director indicated that as the Project has not changed in terms of the operating regime that was previously considered by the Director and the Minister, the potential impacts to fisheries and fish habitat will continue to remain the same as assessed by the original Environmental Study Report and the Addendum.</p> <p>Ministry of the Environment staff have reviewed the addendum documentation, and in consideration of Fisheries and Oceans Canada's satisfaction that the Project will not significantly impact fish and fish habitat as a result of construction or operation, the Director's decision indicated that she was satisfied that Swift River Energy Limited has met the requirements of the Electricity Guide for assessing potential negative impacts to the surrounding natural environment. As no new information was provided, I concur with the Director's decision.</p>
Blasting Impacts	
The appeals continue to state concern with the impacts associated with the Project now being located adjacent to the North Bala Dam. Specifically, the requesters indicate that the blasting required to construct the intake has a higher potential to damage this structure. The requesters also continue to note that the modified Project may continue to cause damage to other surrounding structures, namely the culturally significant buildings, the Dams, and the nearby Canadian Pacific rail line.	<p>The Director and my previous decisions both addressed the issue of blasting and its potential impacts on the surrounding environment. The decisions concluded that Swift River Energy Limited had adequately assessed potential impacts to the surrounding environment due to blasting activities on the nearby features, such as the buildings, the Canadian Pacific rail line, and the Dams.</p> <p>Although the Project will be moved closer to the North Bala Dam, the procedures associated with blasting and excavation for the intake will not be changed. Swift River Energy Limited states in a response to Ministry of the Environment staff on July 13, 2012, that detailed blasting plans will be prepared to lay out the blasting methodology, procedures, schedule, responsibilities and</p>

	<p>monitoring requirements. In addition, Swift River Energy Limited may be required by the Ministry of Natural Resources, through the Waterpower Lease Agreement, to undertake future safety assessments or blasting surveys on the North and South Bala Dam, if necessary.</p> <p>Ministry of the Environment staff continue to be satisfied that the impacts to nearby structures and buildings, namely the North Bala Dam, as a result of blasting will be mitigated, and that Swift River Energy Limited adequately considered this issue in the addendum documentation. I concur with the Director's decision that the Project does not warrant an individual environmental assessment.</p>
Project appearance/renderings	
<p>The requesters continue to state that the renderings documented in the addendum report do not adequately represent the facility, and that Director did not adequately consider the issue that Swift River Energy Limited is not accurately expressing how the Project will impact the surrounding natural environment.</p>	<p>Ministry of the Environment staff confirm through their review of the Project's addendum documentation that Swift River Energy Limited has provided adequate details in the renderings of the Project's physical appearance, its features, and its potential impact on the surrounding natural environment. I am aware that specific details pertaining to locations of certain features, in addition to final overall look of the facility, will need to be finalized during the detailed design phase and prior to construction. The Electricity Guide does not require detailed designs at this stage.</p> <p>The Ministry of Natural Resources has confirmed in correspondence to Ministry of the Environment staff on June 28, 2012, that there are no outstanding concerns with Swift River Energy Limited's addendum documentation pertaining to aesthetics. The Ministry of Natural Resources' comments on the original Environmental Study Report remain valid, which stated that Swift River Energy Limited will be required to provide further documented details regarding aesthetic considerations when it applies for plans and specifications approval for the facility under the Lakes and Rivers Improvement Act.</p> <p>Swift River Energy Limited has confirmed to Ministry of the Environment staff on July 13, 2012, that there are no plans to include warning lights or sirens on top of the facility to signalize water level fluctuations as a result of the operation of the Project.</p>

	<p>As part of her decision, the Director indicated that she satisfied that Swift River Energy Limited has met the requirements of the Electricity Guide for assessing the potential impacts to the surrounding environment with regards to visual and aesthetic impacts. As no new information regarding this issue has been provided, I concur with the Director's decision.</p>
<p align="center">Cultural/Historic Landscape/Buildings</p>	
<p>The appeals continue to raise concerns that the Project will negatively impact the cultural heritage and historical tourist designations of the Bala Falls site. The requesters state that the Director did not adequately consider that Crown lands that the Project will occupy and the surrounding areas that will be used for construction and staging, are protected cultural heritage resources and cannot be used for the Project.</p> <p>In addition, the appeals continue to raise issue that the tree located where the Project is now proposed to be constructed, directly adjacent to the outfall of the North Bala Dam, is a heritage tree that it was traditionally used as a trail portage marker by Aboriginal communities, will be destroyed.</p>	<p>In order to address the new concerns raised that the Crown lands now being considered for the Project and the construction/staging areas are considered culturally protected areas, the Ministry of Tourism, Culture and Sport reviewed the addendum documentation. The Ministry of Tourism, Culture and Sport confirmed that the areas proposed to be used for construction purposes of the Project do not currently have any protected cultural or historical designations. In addition, the Ministry of Natural Resources, in its capacity of manager of Crown Land, confirms that these Crown resources have no designations upon them that would restrict them from development. As per the Competitive Site Release Process, these Crown lands were released for waterpower development, and continue to be the location where the Project will be located. Any lands that are not currently owned by the Crown will not be used for construction purposes, as confirmed by Swift River Energy Limited in the Environmental Screening Report Addendum.</p> <p>As the Director's decision indicated, the Ministry of Tourism, Culture and Sport's August 31, 2012 comments to Ministry of the Environment staff, and the Ministry of Natural Resources confirmation in a September 18, 2012 letter concluded that there are no past or current designations placed on the tree referenced in the elevation request, and that it has no historic significance as a portage marker for Aboriginal communities. The Director considered these comments and determined that as the regulatory agencies for designating heritage properties and structures, the Ministry of Natural Resources' and the Ministry of Tourism, Culture and Sport's position on the potential impacts of the Project on the cultural environment are not required to be further considered for the purpose of this review. Although municipal heritage designations on the surrounding areas are now being</p>

	<p>considered, it does not change the position of this ministry that at this time, that the Project does not significantly impact any current heritage resources. As such, I concur with the Director's decision that an individual environmental assessment is not required.</p>
Portage	
<p>The appeals continue to raise concern that the Project's new location will remove a current portage route in the area adjacent to the North Bala Dam. The requesters indicate that the Director did not consider that the removal of this traditional portage will contravene the Public Lands Act, which requires that existing portages must be maintained.</p>	<p>The issue of impacts to a known portage route were previously considered by the Director's and my previous decisions on the Project. The decisions indicated that Swift River Energy Limited has met the requirements of the Electricity Guide for assessing potential impacts to navigation and public safety.</p> <p>As you have indicated and as documented in the addendum documentation, the Project will now be placed on the Crown land area which was previously used by the community as a portage. The Director's decision outlined that the Ministry of Natural Resources and Transport Canada were consulted on this issue, and that through correspondence submitted to Ministry of the Environment staff on August 23, 2012, confirmed that there is no evidence to show that the Crown land area adjacent to the North Bala Dam has any historical significance as a portage route from Lake Muskoka to the Moon River. As the route cannot be considered a traditional portage, the Project will not be in contravention of the Public Lands Act. The Director's decision also detailed that the Ministry of Natural Resources confirmed that there are several other locations which can be used as a portage route instead of the route requesters have identified in the appeals.</p> <p>Transport Canada, the responsible authority for impacts to navigation, including portages, previously reviewed the Environmental Screening Report and has confirmed that the alternative portaging routes are acceptable. Transport Canada reviewed the addendum documentation, and have confirmed in correspondence to Ministry of the Environment staff on August 31, 2012, that it does not have any concerns with the Project with regard to navigation.</p> <p>The Director was satisfied that Swift River Energy Limited has met the requirements of the Electricity Guide for adequately assessing potential impacts</p>

	to the surrounding environment for navigation. I concur with the Director's decision
Public Consultation	
The appeals indicate that the Director did not adequately consider the issue that Swift River Energy Limited has not provided any additional consultation for the addendum, therefore not meeting the requirements of the Electricity Guide.	<p>With regards to public consultation, the Director's decision indicated that the Electricity Guide sets out the addendum procedures for a Project and its requirements for public and stakeholder consultation. The Electricity Guide states that a proponent must distribute a Notice of Filing of Addendum to adjacent landowners and tenants and to all previously involved members of the public and review agencies. In addition, the Electricity Guide states that in the case of a modification to a project planned through the Environmental Screening Process, notice shall be given to all who were notified at the original Notice of Completion stage.</p> <p>Ministry of the Environment staff reviewed the public consultation undertaken for the Project, and confirmed that Swift River Energy Limited published a Notice of Filing of addendum, distributed it to the previously interested parties, including previous elevation requesters, and allowed for a mandatory 30-day comment period, as per the Electricity Guide. As the Director's decision indicated, the Electricity Guide does not require that any additional public meetings or information centres be held, and that only the proponent can decide if it wishes to undertake any further consultation outside of the required consultation.</p> <p>The Director was satisfied that Swift River Energy Limited has met the requirements of the Electricity Guide for public and stakeholder consultation for the addendum, and as there is no new information presented, I concur with the Director's decision.</p>
Process	
The requesters state that the Director's decision did not adequately consider the outstanding issue that Swift River Energy Limited has failed to meet the requirements of the Electricity Guide, as the Project should have been considered a new undertaking. The requesters continue believe that the process	As documented in the Director's decision, the addendum provisions require proponents to consider the environmental significance of minor modifications to projects. A minor modification is any modification to an undertaking that is not defined as a "significant modification" under Ontario Regulation 116/01- Electricity Projects Regulation. A significant modification for this type of project, i.e. a generation facility that uses waterpower as its primary power source, is "any expansion of or

<p>should have started from the beginning, requiring a new Environmental Screening or Review, complete with a detailed description and assessment of the new undertaking and all its required documentation indicating how the Project has met the requirements of the Electricity Guide.</p>	<p>change in the facility that would increase the name plate capacity of the facility by 25 per cent or more.”</p> <p>The addendum provision is to require proponents to consider the environmental significance of modifications to projects. As the Project will not change its capacity, the modification as documented in the addendum can be considered a minor modification.</p> <p>An addendum was prepared to document the modifications to the preferred location of the Project to Crown land as discussed in the original Environmental Screening Report and the change in the operational regime of the Project as stipulated in the Director's conditions.</p> <p>As a proponent driven, self-assessment process, Swift River Energy Limited determined that it was appropriate to use the addendum provision to document the potential environmental effects of these modifications and to satisfy the legal requirements of the Environmental Assessment Act for the Project.</p> <p>The Director was satisfied with the rationale for Swift River Energy Limited to pursue an addendum for the Project and that a new Environmental Screening Process was not required. I concur with the Director's decision.</p>
<p>Local Economy</p>	
<p>The appeals raise concern that the Director did not consider the addendum's inadequacy for documenting the potential significant impacts on the local economy.</p>	<p>As documented in the previous Director's and my decisions, the Economic Impact Study produced for the Project 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 in the Project area, it may also provide opportunities for positive economic growth through local spending by those working to construct the Project.</p> <p>The Director's decision noted that the Electricity Guide requires that a proponent reasonably assess potential impacts to the surrounding economic environment. The Director decided that Swift River Energy Limited made a reasonable attempt to determine potential negative and positive impacts to the surrounding economic environment for the construction and operation periods.</p>

	<p>Ministry of the Environment staff reviewed the Project documentation and the Director was satisfied that Swift River Energy Limited has made a reasonable attempt to document the Project's potential impacts on the local economic environment and that the change in location of the facility as documented in the addendum will not alter the conclusions made by Swift River Energy Limited. As no new information has been provided and the change in the Project location has no bearing on the impact on the surrounding economic environment, I concur with the Director's decision.</p>
--	---

