

MNRF HOUSE NOTE

ISSUE: Bala North Dam Waterpower Project, Township of Muskoka Lakes

SUGGESTED RESPONSE:

- The Ontario government is committed to expanding clean and renewable sources of energy, such as water and wind power.
- The Ministry of Environment and Climate Change provided authority for the project to proceed, subject to conditions of the environmental assessment and other required permits and approvals.
- As part of the environmental assessment for this proposal, Swift River Energy was required to consult with the public, agencies and Indigenous communities.
- My ministry issued an authorization to allow pre-construction work, including storing equipment and materials at the site.
- Ministry staff continue to work with Swift River Energy on the approvals required to proceed with constructing the facility.
- Upon completion of all phases of construction, the company will require a waterpower lease under the Public Lands Act.
- Public safety measures, including restricted access and warning signs have been put in place around the Bala dam area.

If asked about public safety concerns around the dam:

- The ministry implemented a number of public safety measures on the Bala dams, including restricting public access, providing warning signs, and installing booms and buoys.
- Swift River Energy will have the responsibility to ensure appropriate public safety measures are in place as they relate to the waterpower structures and the flows and levels.

RECENT UPDATE

- On July 14, 2017 the Vice President of SREL indicated to local media that commencement of construction on the Bala Falls project "is imminent". "Duration of the first step is approximately one month. The first step in construction will be installation of the upstream cofferdam, a temporary enclosure to keep out water so the intake channel can be excavated".
- On July 13, 2017 the Ontario Surveyor General (OSG) directed the surveyor to deposit the survey. The Crown title of the South Channel was documented. The Registry Office has requested some additional changes which OSG has approved. The survey will be re-drafted and resubmitted/deposited with registry office.

BACKGROUND

- Bala is located in the District Municipality of Muskoka (DMM), Township of Muskoka Lakes. This is a high tourism and cottage area.
- Two MNRF Dams (Bala North Dam and Bala South Dam) are situated in Bala and control water levels on Lake Muskoka and flows into the Moon River as part of the regulated Muskoka River system.
- In 2009, two drownings occurred in the Bala Reach below Bala North Dam. MNRF staff continue to have safety concerns with public use of Crown land adjacent to the Bala North Dam.
- An Ontario hydro generation facility was built on this site in 1924, and decommissioned in 1957 due to high maintenance and repair costs. This power station had a generating capacity of approximately 250 kW (0.25 megawatts). The power house was subsequently demolished in 1972 and the site is now vacant.

Bala North Dam Waterpower Project:

- Swift River Energy Limited (SREL) is pursuing development of a run-of-the-river hydroelectric generating station (4-5 MW capacity) with cycling capabilities on the Crown land site adjacent to the Bala North Dam (in the area where the former hydro generation facility was once located).
- Consultation for waterpower project was conducted under the Ministry of Environment and Climate Change's (MOECC) Environmental Assessment (EA) Act, Ontario Regulation 116 for Electricity Projects. The EA process was completed and the proponent received approval from MOECC to proceed with the project, subject to other required permits and approvals.
- In September 2014, SREL announced its final Scenic Flow Plan for Bala Falls. According to SREL, this plan provides for an increase in scenic flows to maintain both aesthetic and recreational attributes (including protection of walleye spawning) during fluctuating water availability, while balancing the generating efficiency of the new facility.
- In May 2015, MNRF issued a License of Occupation under the Public Lands Act and authorization under the Lakes and Rivers Improvement Act (LRIA) for Phase 1 pre-construction work.
- The below chart provides a summary of approvals in place:

Jurisdiction	Approval in Place
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MNRF	<p>Lakes and Rivers Improvement Act</p> <ul style="list-style-type: none"> • Location approval • Plans and Specifications approval and subsequent Work Permit to commence Phase 1 construction (e.g. temporary coffer dams and facility intake/tailrace) – Note: detailed coffer dam drawings are under review between MNRF and the proponent, once complete an amended Phase 1 will be ready for coffer dam installation. <p>Public Lands Act</p> <ul style="list-style-type: none"> • Land Use Permit for pre-construction staging of materials (now replaced with Licence of Occupation) • Licence of Occupation for Phase 1 construction activities provided to SREL
MOECC	<p>Environmental Assessment Act</p> <ul style="list-style-type: none"> • Completion under O. Reg 116 for Electricity Projects under Environmental Assessment Act - allows proponent to proceed with the project subject to required permits and approvals • Requests for Individual Environmental Assessments (bump-ups) were denied by MOECC March 25, 2011 <p>Ontario Water Resources Act</p> <ul style="list-style-type: none"> • Permit to Take Water (Construction Stage)
Transport Canada	<p>Navigation Protection Act</p> <ul style="list-style-type: none"> • Navigable Protection Program (evaluation of impacts to navigation) approval under the federal Navigation Protection Act.
Municipal	<p>Entrance and Road Occupancy Permits</p> <ul style="list-style-type: none"> • Municipal (upper-tier District municipality of Muskoka) Entrance and Road Occupancy Permits. • Building Permit for construction of a hydro-electric generating station

- MNRF has completed its engineering review of Phase II of the LRIA but will hold its approval until: the survey is filed, easements are addressed, and the construction lease is in place (estimated two months completion, which should correspond with the completion of Phase I construction). The construction lease requires the survey to be filed and easements addressed.
- Upon completion of the project, the hydro facility will require a short-term Crown lease for the facility construction phase of the project, and a long-term Water Power Lease/Agreement (WPLA) for operation of the facility and operation and maintenance of the MNRF Bala dams and associated Crown lands. An approval for an amendment to the existing Muskoka River Water Management Plan may also be required.
- The Township of Muskoka Lakes and SREL signed and executed the lease for SREL use of municipal land in Bala during facility construction.
- SREL obtained a building permit for construction of the hydro-electric generation station which is posted at the facility site. According to SREL all other municipal approvals are in place.
- As of July 2017, the only construction activity onsite has been tree removal and fencing.
- MNRF continues to work with the proponent on the LRIA application phase 2 work (facility construction), Crown land survey, water management plan amendment and water power lease agreement. MNRF advised SREL of the approved Maintaining Water Management Plans Technical Bulletin.
- SREL hosted a Portage Landing Plan Park Open House for the public in Bala on December 8, 2016. It was an opportunity to inspect and comment on plans for post construction restoration of “Portage Landing” – the municipal land (adjacent to the

Crown land site of the facility) being leased by SREL during construction. Approximately 50 people were present, including some council and planning staff.

Opposition to the Project:

- Save the Bala Falls (STBF) is a local group lobbying to prevent the construction of the hydroelectric generating station, mainly on the grounds that:
 - the construction of a hydro electric facility will destroy the aesthetic value of the current falls;
 - the Crown land identified for the project is the location of a historical portage route under Section 65(4) of the Public Lands Act (PLA); and
 - the project is in an unsafe location.
- A non-First Nation protester continues to intermittently occupy sites in the vicinity of the Bala dams. The protester stated on social media she severed all ties with Save the Bala Falls.
 - With authority granted to SREL from MNRF, the company may exercise the rights of an occupier under the Trespass to Property Act, including providing trespass notices to the protester requesting that she leave the site and remove any materials left on the site.

Township of Muskoka Lakes and Issues with the Project:

- The township formed a committee to discuss mitigation opportunities to reduce impacts to the local community during the construction phase of the waterpower project. The committee is comprised of SREL representatives, council representatives, the township's CAO, and an independent chair. MNRF respectfully declined an invitation to participate as the committee is not under the role or legislative responsibility of the ministry.
- The committee's focus was to mitigate impacts of public access to Crown owned parcels of land, locally known as Margaret Burgess Park. The committee considered options including use of township land as an alternative, and recommended the township enter into negotiations with SREL for lease of municipal land.

First Nations:

- The MOECC process under O. Reg 116 for Electricity Projects under Environmental Assessment Act included public and Indigenous consultation.
 - Wahta Mohawks were among the communities included in consultations and engagement by MOECC and the proponent.
 - The Wahta Mohawks were notified and contacted by the Crown and the proponent on a number of occasions to advise them of the project and give them the opportunity to participate in the environmental screening process.
- Since 2014 the Wahta Mohawks have sent a number of letters to the Prime Minister, Premier Wynne and a number of Ministers asserting the Crown's "Duty to Consult" has not been fulfilled, and expressing concerns related to a historic portage and project related concerns.
- On October 23, 2015, a tri-party letter between the Ministry of Indigenous Relations and Reconciliation (MIRR), MOECC and MNRF was provided to the Chief of the Wahta Mohawks.

- In February 2016, MIRR received a letter from Wahta Mohawks expressing disappointment in Ontario's position on the duty to consult regarding the North Bala Small Hydro Project.
- The Minister of MIRR responded to the Wahta Mohawks by letter in April 2016, outlining the ministry's commitment to fostering trusting and forthright relationships with Indigenous communities, as well as an offer for the Deputy Minister to meet with the Wahta Chief.

APPROVAL SHEET

Issue: **Bala North Dam Waterpower Project (Township of Muskoka Lakes)**

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Appendix:

