



13 May 2015

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Dear Ms. McGhee:

**Re: Proposed North Bala Small Hydro Project – Request for Addendum**

Ontario Rivers Alliance (ORA) is a Not-for-Profit grassroots organization acting as a voice for several organizations, stewardships, associations, and private and First Nations citizens that have come together to protect, conserve and restore healthy river ecosystems all across Ontario.

Swift River Energy Limited (SREL) is proposing to construct a North Bala Small Hydro Project (Project) on the Moon River in the Town of Bala, Ontario. It has come to ORA's attention that there have been significant changes to the proposed plan as set out in the Environmental Screening Report (ER) and subsequent 2012 Addendum (Addendum) as approved by the Director of the Environmental Assessment and Approvals Branch (Director), and subsequently confirmed by the Honourable Jim Bradley, Minister of Environment, in his letter of 23 January 2013.

Section 8.7 of the Class Environmental Assessment for Waterpower Projects, November 2014 – Fifth Edition, clearly states, "*If changes have occurred or modifications to the project are required that may result in negative effects to the environment, the review shall be recorded in an Addendum to the ER as described in Section 8.8 below.*" Consequently, ORA requests that SREL undertake a technical review by applying the potential effects identification matrix as set out in Table 3 of the Class Environmental Assessment for Waterpower Projects (Class EA).

It is ORA's position that the project has undergone major changes that would result in significant environmental and socio-economic impacts, as follows:

**1. Project Footprint**

**a. Increased Building Size:**

Figure 2.1 of the Addendum shows the footprint of the proposed generating station, and Section 2.1 committed that this would be the "*largest building size required*" and "*this size may indeed be reduced following detailed design prior to construction*".



The approved Addendum reported that the roof of the building would be 30' above the Moon River<sup>1</sup>, and at the same height as the Muskoka Road 169.

However, the proponent recently informed the Bala Falls Hydro Project Working Committee that the roof of the building would be 6.2 m, or 20 feet above Muskoka Road 169, and 50' above the Moon River. Consequently, the proposed building has significantly increased in size, and does not comply with the environmental approval.

This larger building size would dominate the downtown landscape, and block the scenic view of the Moon River by passers-by who consider Bala to be a key tourist destination. This change has the potential to result in long-term adverse effects on the use and enjoyment of the falls for residents and tourists, and have significant environmental and socio-economic impacts to the Town of Bala. These impacts must be carefully assessed and reported under a new Addendum.

**b. Portage Landing at Moon River – Heritage Designation:**

On 13 March 2013, a Conservation Review Board (Board) recommended that the Portage Landing on Moon River be designated under *s. 29(8) of the Ontario Heritage Act, R.S.O. 1990, Chapter O.18, amended to 2009 (Act)* to consider the protection of Portage Landing at Moon River under s. 29 of the Act. The Board agreed with the Township of Muskoka Lakes that cultural heritage value or interest as prescribed by the Act had been met.<sup>2</sup>

The Minister of Environment's 23 January decision letter reported that *"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."*<sup>3</sup> However, this is no longer the case, as the Township's Portage Landing was recommended for designation by the Board under s. 29 of the Ontario Heritage Act, and subsequently passed into law through Schedule "B" to By-law 2013-52 for the Township of Muskoka Lakes.

The Heritage designation came into effect after the Addendum was approved and, consequently, the Bala Proposal must now be reassessed from a "heritage value or interest" perspective.

**c. Cutting of 100 Trees:**

The proponent recently stated that in order to provide the rooftop viewing platform provided for in the Addendum, they would need to cut 100 trees from land located on the Township of Muskoka Lakes' (Township) Portage Landing at Moon River. In fact, Section 4.6.1 of the Addendum reported it would not impact the Township's Portage Landing at Moon River site.<sup>4</sup>

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<sup>1</sup> Addendum, Appendix A MOE Decision Letters, Perspectives of the Bala Falls Small Hydro Project – Comparing Options – P 2 of 2, PDF P-29

<sup>2</sup> CRB1109, Issue Date: March 13, 2013 – Re: The Corporation of the Township of Muskoka Lakes – Intention to Designate Three Properties Known as Township Dock at Lake Muskoka; Portage Landing at Moon River; and Shield Parking Lot, in the Town of Bala.

<sup>3</sup> Minister Bradley to Concerned Citizen, Jan 23 2013 – ENV1283MC-2012-3243, P-5

<sup>4</sup> Swift River Energy Limited – North Bala Small Hydro Project Environmental Screening Review Report – Addendum. P-23



The cutting of 100 trees, and filling the area with blasted rock on land with a 'Heritage' designation, is a significant change to the Addendum and must be fully assessed for its environmental and socio-economic impacts.

**d. Project Entirely within Crown Land:**

The Addendum states, "*SREL, therefore, has made the corporate decision to adjust the Project location such that it is constructed entirely on land owned by the Provincial Crown for which SREL has been awarded Application of Record Status.....*"<sup>5</sup> The Project footprint was to be situated entirely on Crown land, but is now proposed to include the Township's Heritage designated lands as well.

Minister Bradley reported in this same decision letter that "*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.*"<sup>6</sup>

**2. Contaminated Ground Water**

In 2013 three exploratory boreholes were drilled to determine the presence of contaminants as a result of the Bala #2 generating station that was built there in 1924, operated until 1957, and demolished in 1972 with no records of where materials were disposed of. Borehole CH13-3 revealed elevated levels of zinc, but was located upstream of the Bala #2 site.

Additional exploratory boreholes must be drilled at and downstream of the Bala #2 generating station demolition site.

Retesting of the site was recommended, however, it has not been completed to date, nor have any construction provisions been made to deal with this contamination. In fact, there are plans to

- a. Deposit the excavated rock on the adjacent shore, which would allow any runoff and leachate to directly enter the Moon River; and
- b. Use traditional settling tanks to handle the water and sediment/rock from the bottom of the proposed contaminated excavation site, and this water would be pumped from these settling tanks directly into the Moon River, with no provision to remove the elevated zinc concentration.

**3. Public Advisory Committee**

Section 4.6.1 of the Addendum committed to convening a Public Advisory Committee; however, to date the proponent has only struck a Community Based Design Committee whose members, meetings and Agenda are confidential. The minutes from only one meeting have been posted for public review. Therefore, the proponent has not met its commitment to a Public Advisory Committee.

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<sup>5</sup> Swift River Energy Limited – North Bala Small Hydro Project Environmental Screening Review Report – Addendum. P-1

<sup>6</sup> Minister Bradley to Concerned Citizen, Jan 23 2013 – ENV1283MC-2012-3243, P-5



All new information regarding the above changes was only made available through Freedom of Information requests, or from those attending meetings not open to the public. Environmental decisions and impacts must be relayed to the public in an open and transparent manner.

The Guide to Environmental Assessment Requirements for Electricity Projects (Guide) clearly requires that

*"The project must be implemented in the manner described in the Screening Report or Environmental Review Report, and the proponent must fulfill any conditions that the Director or Minister apply in a decision not to elevate a project."*<sup>7</sup>

Also,

*"As set out in section 4 of the Regulation, changes or expansions to facilities listed in section 4 of the Electricity Projects Regulation are also subject to the Environmental Screening Process. A change or expansion that is a "significant modification" (as defined in the Regulation) to a project listed in section 4 of the Electricity Projects Regulation is subject to the full review process set out in the Environmental Screening Process (including preparation of a Screening and/or Environmental Review Report). A change or expansion that is below the threshold for a significant modification as set out in the Regulation is considered a "minor modification". Minor modifications to projects designated in section 4 of the Regulation are subject to the addendum provisions set out in section B.5.2 of this Environmental Screening Process."*<sup>8</sup>

If ORA does not receive confirmation that SREL has undertaken a technical review within 30 days of receipt of this letter, a formal request will be made to the Minister of Environment and Climate Change.

ORA request that SREL refrain from moving forward with the proposed project until a technical review has been submitted to the Minister for his consideration.

Respectfully,

Linda Heron  
Chair, Ontario Rivers Alliance  
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CC: The Honourable Minister Glen Murray, Minister of MOECC – [Minister.MOECC@Ontario.ca](mailto:Minister.MOECC@Ontario.ca)  
Gord Miller, Environmental Commissioner for Ontario – [Commissioner@ECO.on.ca](mailto:Commissioner@ECO.on.ca)  
Mitchell Shnier, Save the Bala Falls – [Mitchell@Shnier.com](mailto:Mitchell@Shnier.com)

<sup>7</sup> Guide to Environmental Assessment Requirements for Electricity Projects, March 2001. Sec. A.6.1, P-18

<sup>8</sup> Ibid. Section B.1, P-28