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12 September 2011

Vanesa Enskaitis
Public Affairs Liaison
Xeneca Power Development Inc.
T: 416-590-9362 X 104
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Dear Ms. Enskaitis:

**Re: Class Environmental Assessment Report for the Proposed Ivanhoe River – The Chute
Generating Station**

Ontario Rivers Alliance (ORA) thanks Xeneca Power Development Inc. for its letter, dated September 9, 2011, in which you answer some of our questions set out in our letter to you, dated August 11, 2011, in response to your Notice of Completion, and Waterpower Class Environmental Assessment, for the Proposed Ivanhoe River, The Chute Generating Station.

On Friday, September 9, 2011, at 2:34 pm, with the deadline for a Part II Order request nearing, and having had no response from Xeneca to our questions of August 11, 2011, ORA submitted a Part II Order request to the Minister of Environment. At 4:39 pm, within 2 hours of ORA's letter being received by you, your response to our August 11, 2011 letter was received. As a matter of fact, several ORA members received your response to their questions late that same afternoon, and even into the evening, leaving inadequate time to respond before our requests for a Part II Order. This was unacceptable to ORA and should be unacceptable to the government and citizens of Ontario.

You mentioned you have visited the ORA website, but have obviously misread or missed ORA's Mission and Vision. You will note on every page of our website, our Vision, "a world of healthy river ecosystems" and Mission "to protect, conserve and restore healthy river ecosystems" appears; and the words "protect natural river environments for recreational canoeing and kayaking uses" does not. The words "canoe" and "kayak" do not even appear in the main information pages of our website. Just as throughout Xeneca's response, you change and generalize ORA's questions, and grossly generalize your answers to our detailed questions, you have interpreted ORA's purpose to suit your own needs. This is not surprising as it only reflects the generalized style and detail of the information contained in your Environmental Report for The Chute. You might also note that ORA's values are "truth, sensibility and wisdom in all matters pertaining to our rivers and their ecosystems."

The reason Xeneca's name appears more often on ORA's website is because Xeneca has 33 waterpower proposals across Ontario, which is by far the most of any other developer, and therefore the frequent mention of Xeneca in our correspondence can in no way be construed as being biased against it. If you look on our "Links" page under "Proponents", you will see there are four waterpower developers listed on that page. If Xeneca staff had taken the time to look at ORA's website carefully they would see ORA has also commented on OPG, Domtar Inc., Energy Ottawa Inc., and Swift Energy agreements and proposals. Xeneca's unfounded accusations of bias, as well as misrepresenting the wording of our correspondence, makes it difficult for ORA to trust in Xeneca's desire to find a way to develop a cordial dialogue and develop a working relationship with the ORA.

Consequently, ORA's request to the Minister of Environment to issue a Part II Order to elevate the Class Environmental Assessment to an Individual Environmental Assessment stands, as written in our letter dated, September 9, 2011.

Please be assured that ORA fully understands the EA process.

Below you will find specific responses to your answers to some of our questions:

1. Cumulative Effects Section

a) Elevated methyl Mercury

Your answers to ORA's questions regarding the production of methyl mercury are very general and you refer ORA to page 103 of EA report, which under the column Residual Effects, Yes or No, Xeneca indicated "Unknown due to outstanding data and information".

Tree removal from the inundated zone is only one consideration, as methyl mercury production also occurs from soil, sediment and organic matter contained in the impoundment. When water is stored in these impoundments, and bacteria start to digest the flooded soils, inorganic mercury changes into methylmercury. The mercury is then released into the food chain contaminating fish, birds, mammals and humans who rely on the river ecosystem.

You refer to the inundated area as being very small in relation to the flow of water flushing this system, however, again, very small is a relative term and does nothing to relieve ORA's concerns. In actual fact the inundation is actually 59 hectares, or 146 acres – not small by ORA's standards. Xeneca also mentions ORA's referenced science relates to studies on reservoirs that were orders of magnitude larger in volume and area (in relation to river flow) than is the case at The Chute. These studies do not even mention size or magnitude, so Xeneca cannot deduct that they don't relate? Again, Xeneca interprets studies to suit their own Agenda.

Xeneca states, it does not appear that this project has a significant potential impact related to methylmercury; however, ORA is not assured by Xeneca's assumption that methyl mercury production will not be a problem when, as stated in our August 11, 2011 letter, MOE staff, on April 19, 2011, stated that methyl mercury resulting from the impoundment of water was of concern to the MOE.

Xeneca's response to this concern is not satisfactory.

b) Warming of water in the head pond

First of all Xeneca has changed ORA's question from "algal toxins" to "fatal toxins" – this is unacceptable.

Xeneca again refers to the headpond as small and retention times short, and would not contribute to significant warming; however, Xeneca's Environmental Report clearly indicated that "all inflow from the upstream would be passed downstream within 48 hours"ⁱ. 48 hours is not a short time, and would expose this water to many hours of sunshine.

Xeneca says this project was specifically engineered to have a small headpond and minimal inundation, but again Xeneca minimizes the impacts by using terms such as small and minimal, and compares this proposal to other hydro projects in Ontario, which are not relative and are clearly outside of the scope of this ER.

ORA is looking for scientific studies and technical reports that bear out Xeneca's conclusions. Your answer is not acceptable to ORA.

c) Town of Foleyet Concerns

Again, Xeneca misquotes ORA's question in stating you were not aware that the Town of Foleyet is allowed to discharge a bacterial soup into the riverine ecosystem. These tactics of twisting ORA's statements only undermines our trust and confidence in Xeneca's sincerity, merit, and intent.

Also the idea that the Foleyet effluent could become a bacterial soup is gratuitous - the effluent only needs to carry the major mineral nutrients (nitrogen, phosphorus, and potassium) from sewage to result in substantial algae growth in an impoundment. Also fish and mussels would help consume the algae from the Foleyet effluent, and with their populations truncated by a barrier 19km downstream, their populations may well be reduced.

Your response addresses engineering concerns, when ORA was clear that it was specifically concerned that any effluent discharge from Foleyet, if allowed to sit in a head pond exposed to solar absorption, and warming for up to 48 hours, would create algal blooms which could have deleterious effects on the riverine ecosystem, both upstream and downstream of The Chute GS. Your response again states the matter of residence time and water temperature has been fully addressed in the answer to the previous questions, when it clearly has not. Your answer is not acceptable.

d) Identified Potential Effects

Again Xeneca tries to lessen the impacts by making a general conclusion and referring to this proposal as very small, however, this ER is not addressing other projects, and we take exception to your statement/position that this project is as close as possible to an environmentally friendly run-of-river facility. This proposal is for a modified peaking

dam, and there is a vast difference between a simple run-of-river dam and a modified peaking dam. You continue to use words and terminology to minimize the impacts, however, the Health Canada and MNR studies back up our statement. There is no mention of size or time of residence in these reports, only that dams which use peaking methods have numerous environmental impacts associated.

These reports bear out ORA's position that electricity generated by the type of dam Xeneca is proposing will not be "green, clean and environmentally low impact", but instead has numerous negative impacts on the riverine ecosystem associated with it.

The purpose of the Environmental Report is not to determine what share of the pie Xeneca gets to have with Ontario Rivers, or whether it is fair or not, but is to strictly address environmental impacts of the proposal.

Your explanation and excuses are not acceptable, and ORA's Part II Order request stands.

- e) **Ivanhoe Lake Dam** – not addressed by Xeneca.
- f) **Third Falls hydroelectric facility** – not addressed by Xeneca.
- g) **Climate Change** – not addressed by Xeneca.
- h) **Variable Flow and Rapid Flow Changes** – not addressed by Xeneca.
- i) **Erosion and Sedimentation** – not addressed by Xeneca.
- j) **Clearing for new Transmission Lines and Access Road/s** – not addressed by Xeneca.

2. Contempt of Process

a) Site Release & Applicant of Record

Public servants work for the public. If you go through the EA process and then find out your application will not receive the necessary Site Release, Permit to Take Water, etc., then Xeneca will have wasted taxpayers dollars. Xeneca was asked, and warned several times by MNR staff to address their process first, as well as by MOE staff.

If the FIT Program, Ministry of Energy or the Ontario Power Authority necessitates or allows sliding or breezing through any of the necessary processes, then these authorities are undermining environmental protection in Ontario.

Xeneca says that internal discussion between Xeneca and government Agencies is between these two parties only and in no way affects the ORA; however ORA submits that these discussions do affect all Ontarians, and we have a Freedom of Freedom of Information Act to protect the public's right of access to information.

Again, Xeneca speaks in very general terms about sharing the resources, of other rivers and of fairness; however, Xeneca has now totally gone outside the bounds of this ER.

Applicant of Record naturally follows a successful Site Release, and that status does have meaning to stakeholders.

b) Field Studies Ongoing

According to Appendix C of the ER, many times MOE and MNR staff expressed their concerns that studies and investigations were ongoing and wouldn't be completed before the ER was submitted, and so would not appear in the ER, and thus would require public consultation to present the findings of these post EA investigations. It should not be up to the developer to decide if additional study work would be prudent.

ORA's request for a Part II Order stands.

c) Project Description (PD)

Up until the ER and Notice of Completion is issued, all the public has to go by is the PD. It is very useful for the developer to keep information regarding the proposal from stakeholders and the public until the very last minute – this is not acceptable. Xeneca offers to provide information to the ORA on a regular basis as it is developed, and this would be a very welcome change, as up to this point Xeneca has gone to great lengths to keep detailed information away from stakeholders.

d) Public Consultation

ORA reiterates MNR and MOE's concerns as set out in our August 11, 2011 letter. There were no public meetings in Timmins, and the public does not have all the information because many studies have not yet been completed, so how can an informed response be made?

ORA's position remains unchanged, and the request for a Part II Order stands.

3. Mitigation

ORA would be willing to work with Xeneca and Agency staff to ensure our mitigation requests are granted; however, Xeneca has a long way to go to our restore confidence and trust in your organization.

4. Public Safety

Addressing public safety in a post EA phase is not acceptable. Public safety issues must be addressed from the very beginning so stakeholders can be assured these dam proposals will not threaten children, boaters, fishermen, or anyone navigating the river system.

ORA's request for a Part II Order stands.

5. Decommissioning of Dam

There are many factors that could change Xeneca's mind, such as climate change, withdrawal of FIT Contract offers, elimination of peaking incentives, etc.... There are numerous reasons why there must be funds held in escrow in case this dam is no longer viable and must be removed.

ORA is not satisfied with your answer, and our request for a Part II Order stands.

6. Modified Run-of-River

Since Xeneca has provided a credible explanation for "Run-of-River with Modified Peaking", and if Xeneca agrees to use this term when referring to these types of dam proposals, rather than merely run-of-river, then ORA will accept your answer.

7. Installed Capacity – Power Generated

No answer to our request – this is not acceptable.

8. Socio-Economic

Your response does not address the numerous businesses that rely on the natural beauty and aquatic life of this area for their way of living. The economic stimulation in this region will be very short lived, and will not provide any more than a few permanent jobs. The citizens of Ontario will pay very dearly for the power generated if this facility were to go through to construction, and it is ORA's position that the economic benefit is overshadowed and negated by the numerous negative impacts listed in Xeneca's ER, and the principle of "no net loss" is not respected. This answer was not acceptable to ORA.

9. The Chute and Third Falls

Xeneca refuses to conform to the Class Environmental Assessment Act, s1(3), which states, that *"two or more generation facilities that function together as an integrated system for generating electricity shall be deemed to be a single generation facility for the purpose of this regulation."*ⁱⁱ

As stated in our August 11, 2011 comment letter to Xeneca, Xeneca admitted that in order to manage the activities, a communications protocol between the operators of the Ivanhoe Lake Dam and the Xeneca facilities (The Chute GS and Third Falls) would be implemented; and that "if built, Third Falls GS would create an inundation area that would reach to the downstream side of The Chute. The Third Falls project would create a backwater effect that would prevent the downstream reach from draining during intermittent operation. In this case the downstream water level effect would be less than 0.15 m during any operating cycle, and impacts downstream would be different. There are a number of associated cumulative impacts to consider with the construction and operation of two new waterpower projects on the same waterway, and they are presented in Section 7.2."ⁱⁱⁱ Xeneca clearly states in its own ER, that a "communications protocol between the operators of the Ivanhoe Lake Dam and the Xeneca facilities (The Chute GS and Third Falls) will be implemented".^{iv} Xeneca must comply with Section 1(3) of the Environmental Assessment Act, and treat The Chute GS and Third Falls GS under the same Environmental Report.

The process of providing feedback at the absolute 11th hour can only be construed as an attempt to defeat ORA or any other concerned citizens' right and ability to ask for a Part II Order.

Xeneca's response letter is yet another example of a tendency to generalize, undervalue, gloss over, and leave out important details, and only confirms Xeneca's lack of vigilance and adherence to the spirit of the EA process.

If Xeneca wishes to engage constructively with ORA or any other concerned citizens group they need to demonstrate transparency and good will. If Xeneca wishes to engage ORA, then it needs to demonstrate transparency and respect for the objectives of the EA process, and for ORA. It has been the experience of this writer that Xeneca has used whatever administrative and/or regulatory means at its disposal, to avoid sharing vital documents that should be readily available to stakeholders and the public.

ORA's Part II Order request to the Minister of Environment stands as supported in our letter dated September 9, 2011.

Respectfully,



Linda Heron
Chair, Ontario Rivers Alliance

Cc:

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ⁱ The Chute GS Environmental Report, Annex B, Page 52

ⁱⁱ Ontario Class Environmental Assessment Act, O. Reg. 116/01, s1(3)

ⁱⁱⁱ The Chute GS Environmental Report, Page 137

^{iv} The Chute GS Environmental Report, Page 137