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29 September 2011

Stephanie Hodsoll
Public Affairs Liaison
Xeneca Power Development Inc.
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Dear Ms. Hodsoll:

Re: Serpent River, Four Slide Falls GS Environmental Report

Ontario Rivers Alliance (ORA) thanks Xeneca Power Development Inc. for its letter, dated September 28, 2011, in which you answer some of our questions set out in our letter to you, dated September 22, 2011, in response to your Notice of Completion, and Waterpower Class Environmental Assessment, for the Proposed Serpent River, Four Slide Falls Generating Station.

In all instances please refer to the details, facts and references set out in ORA's letter dated September 22, 2011, to Xeneca:

1. Cumulative Effects Section

a. Elevated Methylmercury Levels

Xeneca states, "Removal of trees from proposed inundation areas is the common industry practice for mitigating the risk of potential increases in methylmercury. This approach has been demonstrated to work and is widely accepted by regulatory Agencies and stakeholders as best practice."

Again, Xeneca makes general statements without backing claims up with studies and facts. ORA referenced numerous studies indicating that removal of trees is not sufficient to prevent methylmercury production in head ponds, and that methylmercury is also produced from the soils, sediment and organic matter contained in newly inundated areas of the head pond. When water is stored in impoundments, bacteria begin to digest the flooded soils, and 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. Hydro-Québec claims that the methylmercury concentrations in fish will return to natural levels in 30 years, but some

scientists estimate that the decline in certain species could take up to 100 years. After impoundment, mercury in fish increased: for example, walleye year 2 (2 X) and year 4 (3.5 X), and for whitefish in year 2 (3 X) and in year 4 (5.5 x).

Xeneca states, "There is no indication that the above mitigation approach would not be effective." It is up to the proponent to prove that this mitigation approach will be effective – you have failed to offer facts or studies to support your theory. The onus is on the developer to prove "*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*".

ORA has serious concerns regarding the contaminants from past mining practices which are contained in the river bottom silt and sediment. The turbidity caused from the proposed dam could cause siltation and suspended particles from the river bottom to be released into the water.

Xeneca has no plans to protect local stakeholders and aboriginal communities who rely on fish from the Serpent River, or who rely on water from the community drinking water intake because there has been no recognition or acknowledgement of the risk.

b. Warming of Water in Headpond

ORA could not find your referenced Section 8.2.1.1.2 (Aquatic Impacts) of NRSI's Environmental Characterization and Impact Assessment Report in Annex III of the ER – the numbering does not go that high and section entitled "Aquatic Impacts" could also not be found.

Xeneca's response, "The cold water nature of McCarthy Lake appears to be more a function of its significant depth than the absorption of solar radiation in Pecors Lake and McCarthy Lake" doesn't make any sense, and does not answer ORA's question.

- I. The fact that "toxins and pathogens are not mentioned in the ER" is the problem. Again, this only shows Xeneca's tendency to minimize or gloss over negative impacts, and this is one area Xeneca refuses to address. "Xeneca's response, "Further, water quality monitoring will be conducted in the pre- and post-construction phases to determine any effects of construction and operation on the river" is inadequate and ORA submits that once the dam is built it will be too late.
- II. Point one did not make any sense, and did not address ORA's question, so neither did answer three.
- III. Xeneca responds, "As with all stakeholders, comments by MNR are duly recorded and responded to based on the facts, research and professional assessment of highly qualified individuals". ORA submits that Xeneca largely ignores the advice and requests of the Agencies in favour of their own Agenda and will.

d. Uranium Mining

Lake Trout have obviously survived, with the help of MNR, however, Xeneca does not even

recognize the risk, let alone provide a means of protection for the people who eat those fish and drink the water that will be exposed to the heavy metals stirred up from the sediment in the riverbed. This is of great concern to ORA.

Xeneca indicates, "There is no indication that the proposed waterpower project will cause a return to the water quality impairment, as the past contaminants appear to have been slowly flushed from the system and no new heavy metal contamination is associated with this waterpower project." ORA isn't surprised to hear that Xeneca is relying on what "appears" to be rather than what is. It is common knowledge and supported by several studies that peaking operating strategies causes turbidity and sedimentation, which stirs up silt from the bottom of the riverbed, and in this case, causing decades of mine tailings long settled in the riverbed to be released into the river water.

d. Residual Adverse Effects

ORA submits that independent and unbiased studies must be undertaken to ensure the significance, or non-significance, of all the potential negative effects in the ER.

ORA submits that fish safety mitigation measures must be a high priority in all dam proposals.

e. Climate Change

Xeneca's response, "Xeneca consultants have taken into account the lows experienced (especially in 2010) and have used averaged data wherever possible. To offset 2010 data, studies were continued in 2011." ORA points out that Xeneca in this response still has not addressed Climate Change.

f. Variable Flow and Rapid Flow Changes - Xeneca did not address.

g. Erosion and Sedimentation - Xeneca did not address.

h. Clearing for New Transmission Lines and Access Road/s – ORA accepts Xeneca's answer.

Note: ORA's Part II Order request stands as written in our letter dated 28 September 2011.

2. Contempt of Process

a. Site Release & Applicant of Record

Xeneca's response, "We welcome your suggestions on how to make the process better and will endeavor to work together constructively." On several occasions ORA has asked Xeneca make the process more accessible and user friendly, and Xeneca has responded in a negative and retaliatory manner. ORA has no faith or confidence in Xeneca's offer or desire to work with ORA.

"Fast" and "perfect" do not go hand in hand. Apparently in the past it took an average of 10 to 15 years to bring a waterpower proposal through the Site Release and

Environmental Assessment process – now it has all been condensed into 5 years from time of FIT Contract to completion of the project. This is irresponsible and dangerous to the public and to the riverine ecosystem.

The fact is Xeneca has not listened to MNR or MOE, but has forged ahead, ignoring their recommendations and warnings. Pressure tactics were applied by Xeneca in their letter dated 27 May 2011, from P. Gillette to Richard Linley, MNR, where two MNR staff were reported, “This is most obvious at the Serpent River sites, but Fishery Management Plans seem to be issued in a negative manner at all our FIT sites. The two key individuals raising these issues are Sandra Dosser and Greg Deyne”.¹

These are the types of pressure tactics that must not occur as it places into question the integrity of the entire process. ORA questions whether determinations and decisions are being made based on pressure placed on staff by upper management, or for “*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?*” Throughout the Agency minutes and correspondence it was mentioned again and again that Xeneca’s timelines were tight – this does not serve the public or the riverine ecosystem.

b. Field Studies Ongoing

ORA submits that decisions cannot be made on a hydroelectric proposal until all factors are known.

c. Public Consultation

It was clearly stated in the Agency Minutes by “The initial location of the proposed Four Slide Falls generating station was located approximately 1.5 km upstream of its current location. In early 2011, Xeneca identified the larger natural feature at the current location which has resulted in a shift in the project site and study area. Additionally, the downstream extent of the variable flow reach has been extended from what was initially determined and now encompasses the entire channel downstream of the Four Slide Falls to the river outlet at McCarthy Lake 4 km downstream due to the proposed modified run-of-river operating strategy.”²

So ORA is very curious to know how the public was informed of this change back in December of 2010, when the shift in sites didn’t happen until “early 2011”?

Note: ORA’s Part II Order request stands as written in our letter dated 28 September 2011.

3. Mitigation

Xeneca states, “Our studies indicate that Four Slide Falls is a natural barrier to fish passage. However, we will discuss this issue further with both MNR and DFO as to the need for fish

¹ Appendix C, P-91, 2011, May 27 – Patrick Gillette to Richard Linley, MNR

² Four Slide Falls Environmental Report, P-43

passage at this location”, and ORA submits that fish ladders and/or resting areas for safe upstream and downstream passage; fish friendly turbines; and a portage for canoers must be provided.

Note: ORA’s Part II Order request stands as written in our letter dated 28 September 2011.

4. Public Safety

The project’s zone of influence will take in a very large area, reaching as far downstream as McCarthy Lake, and for several kilometers upstream. The modified peaking operating strategy could have very dangerous impacts on ice conditions, and therefore public safety - Xeneca does not address this. ORA has concerns for all users and stakeholders of the river.

Note: ORA’s Part II Order request stands as written in our letter dated 28 September 2011.

5. Decommissioning

Xeneca does not address the possibility that due to climate change, the possibility of a withdrawal of the FIT program, or perhaps major damage to the dam caused from ice and/or flooding, that the dam may need to be removed. Again, ORA is requesting that Xeneca lodge funds in escrow for dam decommissioning, so that if for some reason the generating station is no longer viable and must be removed, the funds will be there to take care of it.

Note: ORA’s Part II Order request stands as written in our letter dated 28 September 2011.

6. Run of River

Xeneca states, “These studies have shown there will be no major effects on the Lake Trout in McCarthy Lake”.

It was pointed out by MNR that, “based upon the limited data currently provided in the project description report, it appears that the Four Slide Falls site has been designed to rely upon un-natural head and what could be conceived as un-natural flow conditions. MNR is concerned that the extensive area of inundation proposed for this site may significantly alter the water chemistry and quality within the reservoir, and in turn, the water flowing downstream into McCarthy Lake.”³

On further examination of the ER and supporting documentation, it has also come to our attention that A Annex – Hydrology Review, submitted by Hatch Inc., dated January 2010, contained a few other interesting facts:

- a. The “Report Disclaimer” states, “the report is based on information made available to Hatch by the Client or by certain third parties; and unless stated otherwise in the Agreement, Hatch has not verified the accuracy, completeness or validity of such information, makes no representation regarding its accuracy and hereby disclaims any

³ Appendix C – P77, 2011, May 18 - MNR to Xeneca

liability in connection therewith."⁴ Xeneca has provided the information and Hatch has not verified its accuracy or completeness, and disclaims any liability.

- Note:**
1. Please explain why this document appeared in this ER?
 2. Where is the Hydrology Review for the Four Slide Falls GS ER?
 3. Of what value is this report if Hatch won't verify or stand by it?
- b. The Hydrology Review contained in this ER states "The Run-of-River plants proposed for the Serpent River hydropower sites must use river flows as they arrive, without the use of reservoir storage to regulate flows."⁵
- Note:**
1. This Report is for a run-of-river operation in a totally different location on the Serpent River, so what possible use could this report have in this ER on this specific site chosen at Four Slide Falls?
 2. Why was there no hydrology report prepared for a modified peaking run-of-river dam in its present location at Four Slide Falls?

Note: ORA's Part II Order request stands as written in our letter dated 28 September 2011.

7. Intermittent Operations and Flow

ORA refers to the The Lakes and Rivers Improvement Act (LRIA) which specifies "generally two-thirds of the stream-flow at any time should be maintained downstream, unless conditions warrant otherwise."⁶, and Xeneca refers to Section 4.5.4 of the 2004 draft LIRA Guidelines which states that "*Provision shall be made in the design and operation of a dam or partial diversion to maintain adequate downstream flow when there is flow in the stream, e.g., a low flow opening in a dam. Generally, two-thirds of the stream flow at any time should be maintained downstream, unless conditions warrant otherwise*"; and claims, "The Operating Plan for the project will ensure that downstream flows do not significantly affect the river's ecosystem. The flows which will be allowed will be the result of discussions with MNR and DFO requiring approval under the LRIA and will become part of the Water Management Plan for the river." Xeneca cannot make these little rivers pay for themselves unless environmental and compensatory flows are at a bare minimum – and this is what is being proposed.

Note: ORA's Part II Order request stands as written in our letter dated 28 September 2011.

8. Four Slide Falls and McCarthy Chute

Xeneca responds, "Cumulative effects are considered when there are other projects on the river which are in the operating phase, under construction or in the EA phase. At the moment only Four Slide Falls is in the EA phase on the Serpent River in our area. If we decide to proceed with McCarthy Chute and advance it to the EA phase, that EA will need to cover cumulative effects."

ORA submits that the Class Environmental Assessment Act, states, "two or more generation facilities that function together as an integrated system for generating electricity shall be

⁴ A Annex, Hydrology Studies and Operating Strategy – P 5

⁵ A Annex, Hydrology Studies and Operating Strategy – P 13

⁶ Lakes and Rivers Improvement Act, s 4.3.3(1)

deemed to be a single generation facility for the purpose of this regulation.”⁷ This item also belongs in the Contempt of Process section because Xeneca has every intention of moving forward with the McCarthy Chute proposal, if and when this one makes it through the EA process, and has in fact already moved forward in many respects, but is holding back on this one as a strategic move to achieve its agenda.

Camp Lake Serpent River GS and Serpent River First Nation GS must also be considered in the cumulative effects of all these facilities on the riverine ecosystem.

Note: ORA’s Part II Order request stands as written in our letter dated 28 September 2011.

Conclusion

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 and intent of the EA process.

Xeneca responds, “This approach to document handling is in accordance with the Waterpower Class EA process.” To date Xeneca staff has not been able to direct ORA to the exact section of this document where this policy is outlined.

If Xeneca wishes to engage ORA, then it needs to demonstrate a willingness to cooperate, to share information, and show 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 28, 2011.

Respectfully,



Linda Heron
Chair, Ontario Rivers Alliance

Cc: The Honourable John Wilkinson, Minister of Environment - minister.moe@ontario.ca
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⁷ Class Environmental Assessment Act, O. Reg. 116/01, s1(3)

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