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6 January 2014

Mr. Ian Parrott, Acting Director  
Environmental Approvals Branch  
Ministry of Environment  
2 St. Clair Avenue West  
Toronto, Ontario  
M4V 1L5

Email: [Ian.Parrott@Ontario.ca](mailto:Ian.Parrott@Ontario.ca)

**Re: Proposed Amendments to the Class Environmental Assessment for Waterpower**

Dear Mr. Parrott:

Ontario Rivers Alliance (ORA) is a Not-for-Profit grassroots organization acting as a voice for the French River Delta Association, CPAWS-OV, Council of Canadians, Kiishik Community Association, Food & Water First, Whitewater Ontario, Vermilion River Stewardship, Mississippi Riverwatchers, French River Stewardship, as well as many other stewardships, associations, and private and First Nations citizens who have come together to protect, conserve and restore healthy river ecosystems all across Ontario.

ORA is writing in response to Ontario Waterpower Association's (OWA's) letter to you, dated 3 December 2013, in regard to our proposed amendments to the Class Environmental Assessment for Waterpower (Class EA), dated 21 July 2013 - attached.

The purpose and intent of ORA's proposed amendments to the Class EA are to improve the consultation and commenting experience for the public, and to help ensure more environmentally responsible and sustainable waterpower projects. If adopted, these amendments would provide a more informative, transparent and user friendly experience for the public, bring clarity, strengthen confidence in environmental reports submitted for comment and, overall, would improve the integrity of the process.

Over the last few years, with the huge increase in waterpower approvals moving through the environmental assessment process, it has been ORA's experience that the proponent led process has resulted in a fox in the hen house experience for the public and some First Nation communities. In many instances, proponents have not hesitated in letting the public know that it's a done deal, that they are calling the shots, and that it is up to them how much information they will provide. The level of information contained in some environmental reports has been very lacking when key studies are skipped, and important details and decisions are deferred

until the permitting and approvals phase of the project, when the public has no opportunity for input. This has led to an erosion of the public's confidence in the proponent, the project, and the process. It is imperative that integrity and confidence is restored to this proponent led environmental assessment process for waterpower. This can only be achieved through a fully transparent, open and accountable process that not only enables, but encourages public input into all key decisions.

The Class EA process for waterpower speaks to public input but in reality the process is broken when only 30 days is provided to review over a thousand pages of extremely complex and technical documents that are locked, so cannot be searched, highlighted or copied. ORA is seeking to enhance the integrity of this process, whereas the OWA continues to maintain barriers which keep clarity and public input to a minimum. ORA is asking that a fully relevant, and user-friendly process be developed to ensure meaningful public and First Nation input.

ORA submits that the science based precautionary approach, the watershed and ecosystem approach, and consideration for cumulative effects and sustainability are not just broader government policy questions, but are principles that have been mandated through the Ministry of Environment's Statement of Economic Values (SEVs). These are all principals that OWA should not only embrace, but also promote and require through its Class EA for Waterpower if it has any desire to ensure integrity of the environmental assessment process, to provide meaningful consultation, or to ensure the sustainability of waterpower projects.

These important standards are crucial to fulfilling the requirements under the Environmental Assessment Act (EAA), which states very clearly, that "*the purpose of this Act is 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.*" R.S.O. 1990, c. E.18, s. 2. The definitions as written in ORA's proposed amendment are intended to at least partially fulfill these mandated principals, and are all considerations that should be embraced to produce any socially, environmentally and ecologically sustainable project. The amendments we requested were not unreasonable given the magnitude of potential impact and the high level of public interest, nor were they large or complex. Society will have to live with these facilities for a century or more so it's important to get it right, and for the public to clearly understand what is being proposed.

Mr. Hoag states in his response that "*the suggested definitions were developed to provide a sufficient level of detail in order to enhance the public's understanding*". ORA submits that OWA's definitions have failed in this regard, as they are extremely complex and confusing and would only create more uncertainty while serving to provide even more flexibility for the waterpower industry to divert public attention and understanding. OWA's definitions are so lengthy that they are left totally open to interpretation, would do nothing to bring clarity, but instead would leave stakeholders uncertain and confused. It is also essential to include the definition of a waterpower facility that has no impoundment or reservoir, but OWA failed to do this.

ORA suggests that a Water Management Plan should be completed by the time the Notice of Completion is issued. This would prevent some of the challenges experienced in the current EA process where many crucial aspects and decisions of a waterpower project are left until after the Statement of Completion is issued, when the public and stakeholders have no opportunity for input. This would go a long way to build trust in a process that is weak in its implementation and oversight.

OWA has a great responsibility to set the example and the lead for its members to follow. It is

our submission that through its response to our proposal, OWA has demonstrated an unwillingness to provide for an open, transparent and accountable Class EA process, and has shown a complete disregard for the value of public input and understanding. It must not be left to proponents to decide on crucial aspects of the Class EA process. If there is to be any meaningful public and First Nation consultation, participation and input – it must be required through the Class EA. Public and First Nation consultation, participation and input should be sought out and encouraged; it should not be treated as a tick the box exercise.

OWA's response to our proposed amendments is very disappointing and shows a lack of willingness to lead the waterpower industry into a more environmentally and socially responsible environmental assessment process.

Approval of our proposed amendments would help bring clarity, confidence and meaning to a process that, according to Gord Miller, our Environmental Commissioner for Ontario, "*it would not be too forceful to say that Ontario's EA process is broken*"<sup>1</sup>. ORA requests that our proposed amendments to the Class EA for Waterpower be approved as written.

ORA looks forward to your response.

Respectfully,



Linda Heron  
Chair, Ontario Rivers Alliance

Attachments (2)

Cc: Colin Hoag, Policy Advisor, OWA - [CHoag@OWA.ca](mailto:CHoag@OWA.ca)

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<sup>1</sup> Environmental Commissioner of Ontario, Annual Report 07/08 – P28