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Sarah Nugent, Water Resources Coordinator
Ministry of Natural Resources
10 Campus Drive
Kemptville, Ontario
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Dear Ms. Nugent:

Re: Disposition of American Eel (*Anguilla Rostrata*)
Hydro-electric Facilities Owned by Domtar Inc. and Energy Ottawa Inc. at
Chaudiere Falls, on the Ottawa River – Public Notice and EBR: 011-3334

The Ontario Rivers Alliance (ORA) is an organization with a focus on healthy river ecosystems throughout the Province, and represents some 30 organizations across Ontario. Therefore, we wish to comment on the current Public Notice regarding the Disposition of American Eel (*Anguilla rostrata*), hydroelectric facilities owned by Domtar Inc. and Energy Ottawa Inc., at Chaudiere Falls, on the Ottawa River.

First of all, please note there is a great deal of confusion over this notice and the recent EBR posting: 011-3334. The respective purposes are unclear and it's doubtful that many will respond. There are a flood of these notices regarding waterpower agreements coming at the same time. Secondly, we note that these Agreements must be completed by June 30, 2008 if waterpower facilities that injure eels are to remain in compliance with the ESA. We also note that there has been three years to develop these Agreements. Given the foregoing, and noting that there is virtually no time for government to consider in detail public comments before the Agreements need to be signed, we question the ministry's sincerity in seeking public comments and wonder what purpose they can serve at this late date?

It is encouraging to see that the entire issue of American Eel protection, conservation and recovery are being addressed through strategic mitigation efforts addressed in Regulation 224 and the ESA. As you are aware this entire issue is a matter of major public interest and concern, and the 3 year exemption should have enabled sufficient time for industry and government to negotiate effective agreements to mitigate the serious and ongoing effects of the waterpower industry on eels in Ontario. There are high expectations that the ESA and Ontario Regulation 224 will require the waterpower industry to provide adequate mitigation measures from the impacts of dams, and that they will be implemented rapidly at strategic sites. It is a relief to see Ontario taking action on an issue that the DFO and federal government have ignored for a century.

The agreements at Chaudier Falls are critical as these facilities are the most downstream of Ontario-owned facilities on the Ottawa River. Mitigation of the significant effects of Chats, Chenaux and Carillon dams and generating stations on eels are equally as strategic for eel recovery as they are all in the downstream middle reaches where eels still exist in the Ottawa River and continue to be impacted.

Mitigation of the impacts of these facilities on eel protection and recovery is long overdue. These facilities have had ongoing significant impacts on eels and other species for almost a century. Despite the fact that Carillon GS is owned by Quebec – it still spans into Ontario and (as evidenced by the recent published tailrace survey carried out by the Lanark Stewardship council) its operation continues to kill eels in Ontario waters and I presume is still operating without mitigation of its effects. As this is the most downstream of the power facilities on the Ottawa, it is very strategic to recovery of eels in the Ottawa River watershed and in the province of Ontario. I trust that we will soon see effective agreements with all other facilities on the Ottawa River watershed (including Carillon) where eels still exist in the Ottawa River watershed? Surely the ESA and OReg 224/08 applies to a facility that crosses into Ontario water and whose operation in Ontario leads to the killing and harming of eels.

It is refreshing to see that an eel ladder will be installed at the Chaudier facilities by 2014, although it is urgent that it be installed sooner if possible. Mitigation of upstream and downstream passage must also be an absolute requirement at Chats, Chenaux and Carillon generating stations where upstream passage is prevented and all facilities still kill eels. There should be no doubt in the agreements that mitigation measures will be implemented by a certain date regardless of the current abundance of eels.

Trap and Transfer may also be an excellent interim strategy until better mitigation measures are developed at these sites. There should be no doubt within the agreements that more effective and permanent actions will still be necessary to ensure safe downstream passage. However, the details of this program are unclear in the information provided, and the details are very important. We cannot comment further without more information on the details of this program. Please provide more specific information as it is impossible to provide comment without knowing the details.

A strong monitoring and reporting program will be important to determine effectiveness of the mitigation measures implemented. We see no mention that an adaptive management approach will be adopted in the agreement, but this approach will be essential to ensure adequate mitigation in the longterm. Is an adaptive management approach adopted within this agreement (and if so how) – it should be stated explicitly if we are expected to comment. The monitoring and reporting aspect should be associated with a clear target reduction in mortality. The trap and transfer program information lacks specific details and so it is difficult to make any further effective comments.

This Agreement is far better than others recently posted, and similar approaches should be implemented at all other facilities, including Chats, Chenaux, Gananoque, and the Mississippi River, which leave a lot to be desired. These other agreements must be strengthened or they will not meet the legal tests for Agreements - and the operation of these facilities will continue to jeopardize recovery and survival of American eel. At the very least, within the first cycle of agreements (i.e. first five years of the implementation plans) it should be noted that permanent, effective upstream and downstream passage will be required by a certain date, acknowledging that improvements will likely be required we learn more through monitoring. It appears that the agreements with Chaudier Falls facilities achieve this to some extent, although the lack of detail provided is concerning.

Please register ORA as a stakeholder in this issue, and place us on your mailing list to receive all related information, notices and decisions. Thank you!

Respectfully,

A handwritten signature in black ink, appearing to read "L. Heron", with a long horizontal flourish extending to the right.

Linda Heron,
Chair, Ontario Rivers Alliance

Cc: The Honourable Dalton McGuinty, Premier of Ontario - DMcGuinty.mpp.co@liberal.ola.org
The Honourable Linda Jeffrey, Minister of Natural Resources - ljeffrey.mpp.co@liberal.ola.org
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