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June 13, 2011

Sarah Nugent, Water Resources Co-ordinator
MNR Kemptville
10 Campus Dr., Kemptville ON K0G 1J0

And

Gillianne Marshall
MNR Pembroke
31 Riverside Drive, Pembroke, ON K8A 1R8

Kwey, Kwey Ms. Nugent and Ms. Marshall:

I hope that you both are well.

I write this open letter as an Algonquin Elder from Pikwàkanagàn First Nation in response to your invitation for public comment to the proposed waterpower agreements with Ontario Power Generation Inc. (OPG) at Chats Falls and Chenaux. I write one letter to you both since there is a lack of continuity in MNR's approaches to waterpower agreements in different parts of the Ottawa River Watershed and elsewhere in Ontario. There also is a lack of continuity between these proposed agreements and MNR's responsibilities under the Lakes and Rivers Act (LRIA). I think that it is wrong for MNR to have so many different ways of treating agreements under Ontario Regulation 242/08 and also wrong to not acknowledge in every waterpower agreement the fact that MNR has responsibilities under LRIA.

The proposals in your notices mention the belief that the agreements "will improve protection for American eel" but the proposed plans are so inadequate and are so poorly monitored (visual observation????) that MNR exhibits startling misunderstanding of the scope of fish passage required to ensure such protection. You make a statement in each notice that "agreements, if complied with, will not jeopardize the survival or recovery of the species in Ontario." That statement only will be true if the agreements adopt all of the recovery plans in the American Eel Recovery Strategy, but the plans in the proposed agreements fall far short of the strategies

outlined in the draft of that recovery strategy and we do not yet know what the government response will be to the recovery strategy recommendations. That means that the proposed agreements do not ensure that survival and recovery of the species will not be jeopardized. Therefore, I ask MNR not to sign the proposed waterpower agreements in their current form.

I remind you that Chats Falls and Chenaux are within unceded Algonquin territory. Under the land claims process as the Ontario and federal governments decide how to undertake the sharing of the land with First Nations I am mindful of the very old Sharing Wampum Belt carried by Algonquin Elder Dr. William Commanda. This belt is a document confirming government's commitment to share the land equitably with First Nations. I have received private teaching from Elder Commanda about that sharing. The proposed agreements show very poor understanding by MNR of the need to share and the scope of that sharing. I note that you have not distributed your notices widely. Although I have communicated my concerns about American Eel to MNR in the past you did not notify me about the proposals. You went through a local public consultation for a proposed waterpower agreement with Domtar at Chaudière Falls without letting the First Nations upstream from Ottawa know about it prior to the May 24 deadline so I did not hear about it until it was too late to comment to you. That not only is wrong, it shows that MNR does not have an understanding of the cumulative effects of eels requiring safe passage past a series of dams on the Ottawa River. MNR's lack of understanding of cumulative effects is further evident by stating in each of the Chats Falls and Chenaux proposals that the "study area that may be affected" is what you state as "the area immediately upstream and downstream of the hydro-electric generating station." That statement about such a limited area is a false one not borne out by science nor the reality of cumulative effects. Nor does the statement accept the serious impact on all First Nations upstream from the two generating station, none of whom have relinquished their fishing rights and all of whom need the eels locally available in order to practise traditional activities that are central to the Algonquin way of life, including the nature of instruction to our youth. You state in both the Chats Falls and Chenaux proposals that MNR's Statement of Environmental Values is one of the applicable policies but then you propose clauses which reflect scorn for cumulative effects. Therefore, I ask MNR not to sign the proposed waterpower agreements in their current form.

I have a spirit name, an Algonquin name meaning “Running River Man”, a name that bonds me to the free flowing Petawawa River that passes by my door. I was born on the very banks of this river. Next year I turn 80. Like my ancestors before me, I know the ways of this river as it flows freely. I know the sturgeon and the catfish. And I am old enough to remember when the eels were plentiful, not only here in the Petawawa River, but far upstream in Temagami where I saw eels when I was a young man guiding tourists in the 1940’s and early 1950’s. So I have good credentials to say what I say to you. My personal identity and the identity of my people are tethered to this free flowing river. The sound of the rapids is the united voice of All My Relations. The eels reach the Petawawa River from their spawning grounds in the Atlantic Ocean via the Ottawa River and migrate downstream when they are mature by that same route on the Ottawa River. Since the 1950’s the dams on the Ottawa River have made that upstream and downstream migration for eels more difficult and more dangerous. Now the eels are an endangered species. The Chats Falls and Chenaux proposed agreements come nowhere near close to restoring the eels to their former range and abundance in the upper Ottawa River Watershed, including the Petawawa River. The proposals infringe on my personal identity and the identity of all Algonquins.

You state in the “preliminary evaluation” section of the Chats Falls proposal that “the decline of American eel is seen to affect Aboriginal spiritual and cultural values” and in the Chenaux proposal that “the decline of American Eel populations has affected Aboriginal values, including their spiritual and cultural values.” To clarify, it is not the values which have been affected. What has been affected by the steep decline of eels is the interference with important traditional activities in our home communities across Algonquin territory, including fishing, teaching and ceremony as we practise our care for Mother Earth. Our traditional spiritual and cultural values have been maintained consistently over time so have not been affected. However, we Algonquins have been deprived of the opportunity to practise the activities that are reflected by our spiritual and cultural values. Future references within MNR documents should make this distinction.

I believe that if MNR enters agreements worded like those in the Chats Falls and Chenaux proposed agreements that the Ontario government is presenting an affront to the Algonquins of the Ottawa River Watershed. If such agreements are entered I believe we Algonquins have reason to greatly increase our land claim against the Ontario and Federal governments and that the

federal government would be justified in making substantial reductions in the federal transfer payments to Ontario to cover the additional costs of the claim. Therefore, I ask MNR not to sign the proposed waterpower agreements in their current form.

I am particularly concerned that the proposed Chats Falls and Chenaux agreements between MNR and OPG are silent about the Lakes and Rivers Improvement Act (LRIA) as also being a needed approval or permit. In the Domtar proposed agreement at Chaudière Falls MNR lists LRIA under “other potential approvals or permits” but MNR does not have the same entry in the Chats Falls and Chenaux proposals. That is inexcusable. MNR has a responsibility for the “perpetuation of fish” under Section 2(d) of LRIA. Also, under Section 32, the Minister has the right to order the owner of a dam to provide a fishway “that permits free and unobstructed passage of fish up and downstream.” MNR’s long years of ignoring LRIA cannot be continued if the spirit of the Endangered Species Act, 2007 is to be honoured. Agreements made under O. Reg 242/08 must incorporate the LRIA provisions. Otherwise the honour of the crown can be called into question. As I mentioned to Amada Warren of MNR in my written input in December, 2010 to another matter affecting LRIA, “I need to count on the Lakes and Rivers Improvement Act to preserve the river. That means that any guidelines that flow from the LRIA must empower the people who work for the Ontario Ministry of Natural Resources to follow Ontario’s commitment to its biodiversity strategy and to the spirit at the heart of the Province’s Endangered Species Act.” I ask you to read all of my comments to Ms. Warren about EBR 011-1306 and incorporate them into my public input to MNR re the Chats Falls and Chenaux proposed agreements. And I ask MNR not to sign the proposed waterpower agreements in their current form.

Finally, I note MNR’s poor record of informing the public throughout the Ottawa River Watershed about matters affecting American Eel, including members of the public such as me who have provided MNR with previous written comments about concerns about the species. I also note that there are other dams for which MNR has provided no known public notice about a proposed agreement (eg. Renfrew Power). Given these circumstances I request that MNR provide me with copies of all future public notices that affect the disposition of American Eel and that such notices arrive in time for me to make reasoned input back to MNR.

I hope that you apply the best of your intellect, your sense of fairness and the spirit of the Endangered Species Act to address the serious matters which I have identified. You have my consent to share this communication with whomever you choose.

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All My Relations.

Skip Ross

cc.

- Chief Kirby Whiteduck, Pikwàkanagàn First Nation
- Elder Dr. William Commanda, Circle of All Nations
- Maurice Switzer, Union of Ontario Indians
- Linda Jeffrey, Minister, Ministry of Natural Resources
- Gord Miller, Environmental Commissioner Ontario
- Others as deemed appropriate by the author