



ENV1283MC-2008-2707

OCT 21 2008

Dr. William Commanda  
Algonquin Elder  
Circle of All Nations  
Kanata ON K2L 3K7

Dear Dr. Commanda:

Thank you for your interest in Domtar Inc.'s (Domtar) proposed Redevelopment of the Hydroelectric Potential of the Existing Chaudière Island Site (Project). I welcome your comments on this Project.

You requested that I review the decision of the Director of the Environmental Assessment and Approvals Branch (Director) to deny the elevation requests received for the Project. I am taking this opportunity to inform you that I have decided to confirm the Director's decision that an individual Environmental Assessment (EA) is not required. I am satisfied that the Director appropriately considered the elevation requests in accordance with the Environmental Screening Process (ESP).

In making this decision, I have given careful consideration to the Director's decision, the materials she considered, the Project documentation, the provisions of the Guide to Environmental Assessment Requirements for Electricity Projects (EA Guide), the purpose of the *Environmental Assessment Act* (EAA), the issues raised in your request for review, and other relevant matters. The reasons for my decision are briefly discussed below.

The ESP is a process by which proponents plan and develop projects of this type, including evaluating alternatives, assessing environmental effects, developing mitigation measures, and consulting with the public, without having to obtain approval from me and the Lieutenant Governor in Council for each individual project.

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Domtar has demonstrated that it has planned and developed the Project in accordance with the provisions of the EA Guide. I am therefore satisfied that the purpose of the EAA, "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", has been met for the Project.

The issues and concerns that you raised were extensively reviewed. I am satisfied that the issues and concerns have been addressed by the work done to date by Domtar, or will be addressed in future work that is required to be carried out.

A number of requesters expressed support for an individual EA that would allow for the consideration and evaluation of closing the Domtar hydroelectric facilities without redevelopment. It was suggested that there are positive socio-economic, cultural and major historic national effects of closing Domtar's hydroelectric facilities and that these effects would be considered if an individual EA were to be conducted. I recognize the interest among some requesters to see the Domtar site used for other purposes. An individual EA on this specific Project would not include other facilities owned by Domtar, other hydroelectric facilities owned by Hydro Quebec and Energy Ottawa, or the Chaudière Dam itself. The interest in un-damming the Chaudière Falls is broader than an individual EA that could be imposed on the Domtar facilities for this Project.

Concerns were raised previously to the Director about the amount of water that will spill over the Chaudière Dam. The Director concluded that the three-week extension to the summer dry period when no water spills over the dam will not result in a significant change from existing conditions. Concerns were brought to my attention that an individual EA would allow for the evaluation of the three-week extension of the dry period against a longer period of flow from the closure of the Domtar facilities and that more flow would improve spiritual and inspirational qualities and scenic beauty of the Project site. Under the ESP there was no requirement for an evaluation of alternatives including the 'do nothing' alternative. In comparison to the benefits derived from the Project, the benefits that may be derived from the 'do nothing' alternative (i.e. closure of the Domtar facilities) in order to not extend the dry period by three weeks are not deemed to be sufficient enough on their own to warrant an individual EA.

In terms of the public consultation for this Project, including the scope and sufficiency of Domtar's public consultation, the Director considered that the Project area does not include the entire Chaudière Island site, rather it includes a portion related to the replacement of the two existing powerhouses. The Project will have an impact on the local area of Ottawa only and individuals from outside the Ottawa area have participated in the consultation process. The Director concluded the scope of Domtar's consultation for a project of this type is in keeping with standard ESP practice. Any requested

documents related to this Project are either available as part of Domtar's public record or from relevant agencies and authors. Members of the public wishing to obtain these documents should contact Domtar. I am satisfied Domtar has exceeded the consultation requirements provided under the ESP and has made reasonable efforts to address public concerns. The Director was reasonable in concluding that no further public consultation is warranted through an individual EA.

A number of individuals identified the Chaudière Island site as one of fundamental Aboriginal interest and a sacred meeting place of great historical value to the Algonquin people. Concerns were raised that your vision for Chaudière Falls was not considered. You brought your vision for the vicinity of the Project to the Director's attention in your elevation request. Following the submission of your elevation request, your assistant wrote the Ministry of the Environment (MOE) on numerous occasions to share comments about the Project. The Director considered these submissions as part of her decision. During the course of discussions with MOE staff, you asked to meet with the Director to discuss your concerns.

MOE consulted directly with the Algonquins of Ontario and Romola Trebilcock on your behalf at a meeting in Ottawa on July 12, 2007. The meeting was attended by Domtar and its consultant and MOE staff. Following the July 12, 2007 meeting, MOE staff received no further request from you for a meeting to discuss the Project. I am satisfied that as part of her decision, the Director considered your vision and the concerns expressed in your elevation request. You received a response to the issues and concerns raised in your elevation request.

It is noted that concerns with the un-damming of Chaudière Falls would warrant a broader range of consultation than what was carried out for this Project; however, concerns with the Chaudière Dam and the un-damming of Chaudière Falls are outside the scope of this Project. The Director's decision advised you that concerns with the Chaudière Dam and the un-damming of Chaudière Falls are outside the scope of this Project and I concur with that conclusion.

A number of concerns were raised to both the Director and myself with respect to the fisheries and the potential impacts of the Project on the American Eel. MOE staff contacted the Ministry of Natural Resources (MNR) and the Department of Fisheries and Oceans Canada (DFO) directly for comment on these concerns. The Director's decision determined that, as per the conclusions of the DFO in their April 28, 2008 letter to the MOE, there should be no change to fisheries as a result of the Project. MOE staff consulted extensively with the DFO and the MNR during the review of the elevation requests. In addition, Domtar consulted with these agencies during the planning stages for the Project. In addition to the conclusion noted above, in a letter dated

December 24, 2007, the DFO indicated that eel mortality as a result of turbine operations (i.e. fish entrainment and impingement) are matters being examined by the DFO and the MNR as part of the fisheries management objectives on the Ottawa River and the draft American Eel Management Plan. In their April 28, 2008 letter, the DFO advised MOE that the Project will improve the current situation with respect to American Eel mortality from entrainment.

The DFO and the MNR have explained to MOE staff that the mitigation measures may be imposed on all hydroelectric facilities as a result of the draft American Eel Management Plan and federal and provincial legislation. After the consultation with the DFO and the MNR, the Director was satisfied that the Project is expected to reduce American Eel mortality at the site, that the Project is not expected to have a detrimental effect on the Ottawa River fishery more broadly, and that no additional mitigation measures are necessary. Copies of this correspondence from the DFO and the MNR is attached for your reference. The Director's decision was consistent with the expert agencies' comments, and I am satisfied that no further studies with respect to fisheries and the American Eel through an individual EA are warranted.

As of June 30, 2008, the American Eel was listed as Endangered (Schedule 2) under the new *Endangered Species Act*, 2007. Under this designation there are automatic prohibitions against killing, harming, harassing, taking, possessing, transporting, collecting, buying, selling or leasing of the species. Under the *Endangered Species Act*, hydroelectric power generating stations are allowed to continue to operate provided they comply with O.Reg. 242/08 which requires that the operator enter into an agreement with the Minister of Natural Resources within three years of the date the species is listed on the Species at Risk in Ontario List as an extirpated, endangered or threatened species or the earliest date the species existed at the station. It is my understanding the agreement will require the operator to meet a number of criteria, including, but not limited to, developing steps to minimize adverse effects on the species, ensuring the station will not jeopardize the survival or recovery of the species in Ontario, and include monitoring the effects of the operation of the station on the species. It is worth noting Domtar will be required to obtain a permit under the Lakes and Rivers Improvement Act from which will require further consultation with the MNR prior to construction of the Project.

With regard to concerns about compliance with the federal Fisheries Act, these fall under the jurisdiction of the DFO. As noted above, as part of the Director's decision MOE staff consulted with the DFO. The DFO explained the Project is not expected to result in a harmful alteration, disruption, or destruction of fish habitat (HADD) and thus would not require an authorization under the federal Fisheries Act. The DFO also noted that there will not be an appreciable modification to the water currents downstream of Chaudière Bridge and thus that the Project will not impact fish habitat in a measurable manner, including the American Eel and Lake Sturgeon.

With respect to the comment that MOE appears to support Domtar's position about Carillon Dam instead of challenging its inaccuracy and that locks are an alternate fish passage strategy to an eel ladder, MOE staff acknowledge it may not be appropriate to compare the effectiveness of eel passage at the Chaudière Dam and Carillon Dam; nevertheless, the Director's decision to deny the elevation requests was reasonable because Domtar is one of many facilities on the Ottawa River which potentially impacts American Eel populations. As noted in the Director's decision any discussion on the requirement for placement and construction of fish ladders at the Chaudière Dam will require the participation of Energy Ottawa (the City of Ottawa), Hydro-Quebec, Domtar, the DFO, the MNR, the Quebec Ministère du Développement durable, Environnement et Parcs, and the NCC and would not be addressed through individual EA.

In regard to the suggestion that eel mortality modelling should be reviewed independently, and all reports should be made available to the public, as part of her decision, the Director considered eel mortality modelling. This matter was discussed with the DFO who on April 28, 2008 indicated the predictive mortality modelling provided by Domtar indicates a significant reduction in eel mortality yet it is recognized that this is a modeling estimate only and not verified with field measurements. The DFO also noted mortality reductions to be achieved at this location are in accordance with the short-term management goals of the Draft American Eel Management Plan. I am satisfied that the Director was reasonable in deciding that an individual EA is not warranted in order to provide for further study of American Eel mortality. Material provided by Domtar to the MOE as part of the review for this Project has been included in the MOE's public file for this Project. Should you wish to view these reports, they are available in the public file maintained at the Environmental Assessment and Approvals Branch, or you may request supporting information from Domtar directly.

Concerns were raised to me about juvenile eels migrating up river systems during the peak summer period and the potential negative effects the Project could have on the upstream movement of juvenile eels in midsummer. MOE staff asked the MNR for input on this concern. The MNR reviewed the ESR and the reference to an extended dry season of three weeks of water spilling over the Chaudière Dam. The MNR noted the extended dry season should only have an impact on the area immediately below the Chaudière Dam up until where flow from the tailrace and/or other structures return to the Ottawa River.

The MNR also explained it is expected that a three-week extension of the dry season affecting the area immediately below the ring dam will not substantially change the existing impacts to upstream eel migration as the stop logs in the sluice ways themselves act as barriers to migration. It should be noted that, if historically during the three-week period identified, a sluice way had all stop logs removed and water was flowing freely,

then it is possible that eels could have migrated through this location and putting stop logs in this sluice way would be a potential impact to upstream eel migration. It is noted, however, that this is not a feasible option as a certain head level needs to be maintained behind the dam in order to provide the City of Ottawa with a drinking water source. I am satisfied that the Director was reasonable in deciding that the potential three-week extension of the dry period does not warrant the preparation of an individual EA.

In response to the comments that the Director did not acknowledge that past eel population levels were much higher than they are currently and 2008 eel population benchmarks cannot be the basis from which decisions about eel passage at hydro-electric generating stations can be made, the MNR explained to MOE staff that addressing the "shifting baseline" is a challenge in developing a strategy to address the overall recovery of the American Eel. However, the establishment of benchmarks for eel passage for individual waterpower facilities should be pursued at a strategic level and include participation of all regulators and facility operators along the Ottawa River. As noted above, several agencies, including the DFO and the MNR are involved the Draft American Eel Management Plan to support a coordinated approach to ongoing research and development of mitigation measures to reduce mortality to the American Eel at hydroelectric generating stations. The DFO and the MNR have not identified any concerns with the data Domtar used for this particular Project.

Concerns were also expressed that the Director's decision did not consider Aboriginal Traditional Knowledge (ATK) about eel population levels. The AFN was consulted for this Project by MOE staff. The concerns raised about fisheries were reviewed by MOE staff and forwarded to the DFO and the MNR for their review and comment. Concerns were raised about potential impacts to fisheries, but no ATK was put forward to MOE staff for consideration. MOE staff are satisfied the AFN has had a direct opportunity to provide ATK but did not do so, the fact that the Director did not consider ATK in making her decision does not make the decision unreasonable. Despite the amount of planning for the Project that has already occurred, any Aboriginal community wishing to share ATK may still approach Domtar at this time.

Concerns related to the archaeological assessments conducted by Domtar were previously reviewed by the Director. Issues were again raised to me regarding the constrained study area and specifically regarding whether the assessments included industrial area archaeological remains and a scan of the offshore area where water will exit the turbines. As noted in the Director's decision, Domtar conducted a Stage 1 Archaeological Assessment which found the Project land has a low risk of archaeological findings given the nature of the Project site which contains mostly offsite backfill material. A Stage 2 Archaeological Assessment was completed as well by Domtar's archaeological consultant. It is Domtar's understanding that industrial era archaeological remains were

included in the assessment. The consultant had no heritage concerns regarding development of the proposed site for the Project. Ministry of Culture staff reviewed the archaeological assessment reports prepared for the Project and concluded they are satisfied that provincial concerns for impacts to archaeological sites have been addressed and there are no outstanding concerns for the subject lands. In regard to the specific concern about off-shore archaeological remains, the Project does not contemplate works within the riverbed itself (off-shore). Only a concrete wall will be removed. Domtar has noted the river velocity changes as a result of the greater allocation of water flowing through the hydroelectric facility will be insignificant compared to the spring run off period and therefore the Project will have no impact on possible remains, if any exist. I am satisfied Domtar has fulfilled the requirements of the ESP with respect to studying and addressing heritage and archaeological concerns. I am also satisfied that the AFN's concerns regarding the scope and quality of the archaeological assessments for this Project have been adequately addressed. I am satisfied that the Director was reasonable in concluding that no further archaeological study through an individual EA is warranted.

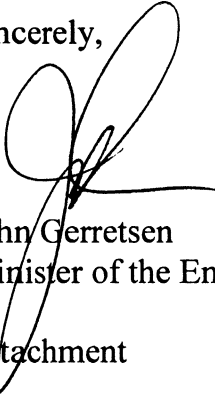
A suggestion was made that the EA needs to look at the potential large scale 'greening' of the entire island. Prior to the Director's decision, MOE staff discussed with Domtar the possibility of a green roof for the Project powerhouse. Domtar advised this was not feasible for safety reasons. The request to green the entire island is a new matter raised to me. The Project area does not include the entire Chaudière Island site, rather it includes a portion related to the replacement of the two existing powerhouses. The remainder of the Chaudière Island is beyond the scope of what would be covered under an individual EA.

With respect to the design details of the proposed bike/foot path and viewing station to be agreed upon by the NCC and Domtar which will cross the Project site and allow public access, concerns have been raised by you that the proposed bike/foot path is not conducive to spiritual ceremony and will not be accessible by you. The Project design incorporates a bike/foot path that goes along the perimeter of the Project defined lands, including a foot bridge over the tailrace section. The path will allow the public to view Chaudière Falls and will be designed to connect directly to Booth Street. The path will be administered by the NCC. Access to NCC lands by the public as well as any First Nation group wishing to perform ceremonies will be dependent on the NCC. Through discussions with MOE staff during the Director's review, Domtar indicated that it will seek input from the AFN as part of its discussion with the NCC about the design of and access to the viewing station. More recently, Domtar advised MOE staff that under special circumstances Domtar would work with the NCC to allow the usage of certain vehicular pathways to bring you to the viewing station proposed as part of the Project.

With this decision having been made, Domtar can now proceed with the Project, subject to any other permits or approvals required. Domtar must implement the Project in the manner in which it was developed and designed, as set out in the Environmental Screening Report, and inclusive of all commitments made during the review of the elevation requests, mitigating measures, and environmental and other provisions therein.

Again, I would like to thank you for participating in the ESP and for bringing your concerns to my attention.

Sincerely,

A handwritten signature in black ink, appearing to read 'John Gerretsen', written over a horizontal line. The signature is stylized with large loops and a long horizontal stroke extending to the right.

John Gerretsen  
Minister of the Environment

Attachment

c: Mr. François Jetté, Domtar Inc.  
Mr. Craig Wood, GENIVAR  
EA File No.EA06-07 Chaudière Island Hydroelectric