

JUN 06 2008

Mr. William A. Allen
Box 85
Burk's Falls ON POA 1C0

Dear Mr. Allen:

Between October 17 and December 15, 2006, the former Director of the Environmental Assessment and Approvals Branch (EAAB) received several requests, including yours, that Domtar Inc. (Domtar) be required to prepare an individual Environmental Assessment for the proposed Redevelopment of the Hydroelectric Potential of the Existing Chaudière Island Site (Project).

I am taking this opportunity to inform you that, based on a review of the Project documentation, the provisions of the Environmental Screening Process (ESP), the issues raised in the requests, and other relevant matters required to be considered under the ESP, a decision has been made that an individual Environmental Assessment is not required for this Project.

The reasons for my decision are outlined below.

The issues and concerns raised by you and other requesters 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 and to which commitments have been made by Domtar in its Environmental Screening Report (ESR) and other Project documentation.

Concerns have been raised in the requests about the impact of the Project on American Eel populations in the Ottawa River and requesters have suggested that fish ladders be used to minimize negative impacts to the eels caused by the turbines. A concern was raised that the ESR does not acknowledge the negative impact of the Project on the movement of eels.

The ESR describes the potential effects of the Project during construction on aquatic habitats and species and mitigation measures are identified, including gathering trapped fish from the intake channel and transporting them upstream. According to Domtar, a review of Ministry of Natural Resources (MNR) data from 2002 and 2004 by Domtar indicated that American Eels have been found above and below the Chaudière Dam and the existing hydroelectric facilities. Domtar advised MOE staff this suggests that the American Eels have bypassed these facilities. Domtar

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has explained to MOE staff the design of the proposed new turbines is expected to increase survival of adult eels on their downstream migration as well as improve survival of all other fish species. This matter was considered in great detail and the MOE requested input from the Department of Fisheries and Oceans Canada (DFO), the MNR, and Domtar and its consultants.

Through this additional consultation, the DFO advised the MOE that the Project will improve the current situation with respect to American Eel mortality from entrainment as the predictive mortality modelling provided by Domtar indicates a significant reduction in eel mortality with the new turbines. The DFO noted there should be no change to fisheries as a result of the Project. The DFO has advised MOE staff that 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. It is the MOE's understanding that the draft American Eel Management Plan will develop mitigation measures to reduce mortality of the American Eel at hydroelectric generating stations. The DFO has also advised MOE staff that the DFO has made a commitment to reduce mortality of American Eel by 50 percent within two years. This commitment is echoed in the draft American Eel Management Plan.

The American Eel was given the status of special concern by the Committee on the Status of Endangered Wildlife in Canada (COSEWIC) in April 2006. COSEWIC is contemplating adding the American Eel to Schedule 1 of the Species at Risk Act. Should the American Eel be added to Schedule 1, the Species at Risk Act gives the Canadian government very specific direction on how to protect the species and promote its recovery. The comment period provided to comment on the proposed listing closed in March 2007 and a decision on listing the species may be made in September 2008.

Through discussions with the MNR, MOE staff were advised by the MNR that concerns related to the American Eel may be addressed through the new *Endangered Species Act, 2007*, which will come into force on June 30, 2008. After June 30, 2008 the American Eel will be listed as Endangered. Under this designation there will be automatic prohibitions against killing and harming the American Eel. Ontario is considering the development of a regulation under the *Endangered Species Act, 2007*, that would enable the continuation of hydroelectric power generation while ensuring adequate mitigation of turbine mortality and fish passage problems at Ontario's water power stations. An Environmental Registry posting of the regulations was published on May 15, 2008. The comment period for the posting ends June 16, 2008.

MOE staff asked Domtar to respond to the issue of fish ladders specifically. Domtar advised the MOE that the DFO and MNR have reviewed this Project with respect to all fisheries related environmental impacts and have concluded that no mitigation measures are required since the Project will not result in any detrimental effects on the fisheries habitat and/or fisheries resources including the American Eel. The Project does not change the overall configuration of the site

(i.e. Chaudière Dam) and it is expected the eels will continue to have access through, over, or around the Chaudière Dam. Fish management on the Ottawa River is a joint responsibility between the MNR and the Quebec Ministère du Développement durable, de l'Environnement et des Parcs (MDDEP). The priority that the American Eel is given will be the responsibility of these two government agencies. Any discussion on the 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 MDDEP, and the NCC. It is noteworthy that downstream at the Carillon Dam there is no such fish/eel ladder and that the Chaudière Dam itself is not being modified as part of the Project.

After extensive consultation with the DFO and the MNR and based on the MOE's review of the work completed by Domtar, I am satisfied that an individual EA is not warranted as the Project is expected to reduce American Eel mortality at the site and further mitigation measures will be considered through broader initiatives being undertaken by the DFO, the MNR, and the MDDEP.

Concerns were raised about the potential impacts of the Project on the visual landscape where the Project is currently situated on the Ottawa River. MOE staff reviewed the ESR and asked Domtar to respond to this issue. Domtar explained to MOE staff that aesthetic considerations for the Project have been determined primarily through Domtar's consultation with the National Capital Commission (NCC). The NCC is a Crown corporation that approves the design of buildings and land use, as well as any changes in use relating to federal lands in the National Capital Region. The NCC met with Domtar and discussed the impacts of the Project on existing structures, flume enlargement, and visual characteristics. It was through discussions with the NCC that Domtar decided to leave the two existing powerhouses in place and build a new powerhouse. The NCC has not identified any concerns with the Project design. The NCC's formal comments on the ESR are contained in the Federal Land Use Approval (FLUA) which was issued on December 8, 2006. In its analysis, the NCC noted that the proposed Project is compatible with the policies of the 2005 "Canada's Capital Core Area Sector Plan" for Chaudière Island to preserve and enrich character, to improve connectivity, and to enhance use, enjoyment, animation, and safety of the Island as it provides for:

- public pedestrian access to Chaudière Falls;
- a first step in the establishment of eventual pedestrian linkages from the Canadian War Museum to the Chaudière Dam; and,
- the enhancement of interpretation, access to facilities, trails and lookouts to improve the image of the sector and expand the public domain over time.

Visual concerns were raised about design components of the Project. One requester suggested that the powerhouse incorporate a green roof with access made available to the public. Domtar has advised MOE staff the roof of the powerhouse building is not large enough to be economically feasible given the nature of the structural changes that would be required on the

building and given the nature of the operations for the hydro requiring complete/secure impermeability. Domtar also explained that access to the roof could not be made available to the general public due to safety concerns. Access to the Project site will be provided, however, by a bike and foot path along the perimeter of the Project site which will be designed and developed by the NCC.

Requesters have stated Domtar should have consulted with Mr. Douglas Cardinal, an architect in Ottawa, for this Project. Domtar did not consult Mr. Cardinal directly, however, Mr. Cardinal was not precluded from participating in the public consultation process. Mr. Cardinal did not provide any comments to Domtar or the MOE for this Project. As noted above, Domtar consulted with the NCC. Domtar has provided the NCC with its artist's rendering of the new powerhouse which was deemed acceptable to the NCC.

A suggestion has been made by a requester to remove fencing and to soften the straight lines of the intake channel. According to Domtar, the fence will be required if access to the site will be made available to the public for safety reasons. With respect to the intake canal, Domtar indicated the intake channel requires lines as straight as possible to mitigate water turbulence. Domtar has indicated that it is willing to consider design elements to make the channel appear "softer."

Concerns were also raised about low water levels during summer months for the Chaudière Falls and the visual impact of less water flowing over Chaudière Dam. It is my understanding that since the inception of the Chaudière Dam in 1910, the typical course of operation for the summer months of July and August has little water being spilled over the Chaudière Dam. Domtar explained to MOE staff that the duration of the existing "dry" summer conditions will be extended by about three weeks when the Project is operational. Matters pertaining to the Chaudière Dam which supplies water to six hydroelectric generating facilities are outside the scope of the Project. As the Project will not result in a significant change from existing conditions and aesthetic issues have been considered appropriately through consultation activities with the public and agencies, notably the NCC. This matter does not warrant the preparation of an individual EA.

Some requesters have raised concerns that the public consultation process was too short and should have been extended. Domtar issued its Notice of Commencement on November 22, 2004 in a local newspaper to announce the Project and to provide an opportunity for public review and comment on the Project. The final comment period was provided following the Notice of Completion, commencing October 17, 2006 and ending on November 20, 2006. For individuals who raised issues or contacted Domtar during that period, Domtar extended the consultation with them until December 8, 2006, providing an additional three weeks. At the end of Domtar's consultation, individuals with outstanding concerns were provided a further seven days to submit

an elevation request. It is Domtar's opinion that it has responded to all issues that were raised as part of the public consultation process. I am satisfied that Domtar has complied with the public consultation requirements of the ESP and provided sufficient opportunities for public involvement.

Requesters have stated that Domtar should have informed a larger audience about the Project and one requester questioned whether Domtar had consulted the proper stakeholders for this Project. In response to this issue, Domtar explained that Domtar and its various predecessor companies have been on Chaudière Island and producing hydroelectric power for over 100 years. While the Project includes a new powerhouse, it is, in reality, a life extension of the existing assets and a continuation of the hydro generating potential. The Project makes use of the same basic area and some existing structures. Domtar considers the Project to have an impact on the local area of Ottawa only and notes that individuals from outside the Ottawa area have participated in the consultation process. The scope of Domtar's consultation for a project of this type is in keeping with standard ESP practise. It is noted that concerns with the Chaudière Dam and the un-damming of Chaudière Falls are outside the scope of this Project.

Some requesters have stated Domtar should have made the ESR more readily accessible. Domtar made the ESR available in hardcopy at four public libraries in Ottawa. Individuals who had contacted Domtar and wished to obtain an electronic copy were also provided with access to a website where an electronic version was available.

Concerns were raised about restrictions on access to the ESR and prohibitions on the cover of the ESR that precluded librarians from sharing of the contents of the ESR with members of the public over the telephone. In response to these issues Domtar advised MOE staff that it did not preclude librarians from verbal telephone sharing of the contents of the ESR. Domtar explained that the opening page of the ESR contains a caveat which states the document is the property of Domtar. Domtar maintains the position that it made no attempt to restrict access to the ESR but reserved its general copyrights. Domtar's opening caveat on the ESR is not atypical of private companies contemplating electricity projects in the province. I am satisfied that Domtar withheld no information from the public or contravened the requirements of the ESP.

A concern was raised that the ESR had two different titles. In response to this issue, Domtar explained to MOE staff that the Notice of Commencement had a different title. It is my understanding the title of the ESR itself has never been changed and the modification of the title from the Notice of Commencement was intended to better inform the public of the location of the Project. The reason for the change stems from early discussions between Domtar and Public Works and Government Services Canada (PWGSC) and the NCC which required Domtar to construct a new facility in replacement of the old facilities.

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One of the requesters expressed concern the ESR was not complete when issued and that the conditions of approval in the FLUA were not made public. Domtar explained to MOE staff the ESR was complete when the Notice of Completion was issued and that the FLUA contains no significant information with respect to the Project which is not contained in the ESR, except the details of how the NCC and Domtar will work together during the implementation phase of this Project. The NCC and Domtar are the parties jointly responsible for the FLUA. If you wish to view a copy of the FLUA you may contact Domtar.

I am satisfied that since Domtar has exceeded the minimum consultation requirements provided under the ESP and has made reasonable efforts to address public concerns, the preparation of an individual EA is not warranted to allow for further public consultation.

There were concerns among the requesters that the Project will not improve access to Chaudière Falls. It was noted in the requests that First Nations historically performed ritual ceremonies at the Falls before the Chaudière Dam was built. The requesters have inquired about future plans of Chaudière Island now that Domtar has closed its paper mill near the Project site.

As noted previously, 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 site by the public as well as any First Nation group wishing to perform ceremonies will be dependent on the NCC. Domtar has advised it is considering whether to provide public access to the remainder of Domtar lands on Chaudière Island; Domtar operated a paper mill on the site until March 2006 and is now evaluating different alternatives for future Domtar land use. I am satisfied that Domtar will work with the NCC to improve public access to the Falls and that an individual EA is not required for that purpose.

There were concerns raised about whether Domtar had conducted appropriate heritage and archaeological studies for this Project. A requester stated that Domtar should not be allowed to build on a historically significant site and noted the Ottawa River will be given a Heritage Designation which may have implications for this Project.

It is noted in the ESR that there is no heritage designation for the Chaudière Island even though there are buildings dating back to the late 1800s. As noted previously, after discussions with the NCC, Domtar has decided to leave the two existing powerhouses in place and build a new powerhouse to protect this historical feature. In addition, Domtar will implement a monitoring plan for these buildings in collaboration with PWSGC to prevent any serious damage during the excavation work associated with construction of the Project. According to Domtar, there has been no approach from any government agency with respect to designation of the Ottawa River as a heritage river.

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With respect to archaeological resources, there are 15 registered sites within one kilometre of Chaudière Island and five archaeological sites in the vicinity of Chaudière Island. Domtar conducted a Stage 1 archaeological assessment which found the Project land has a low risk of archaeological findings given the nature of the land which is mostly offsite backfill material. A Stage II archaeological assessment was completed as well. Domtar concluded that no further archaeological assessment work is needed as the Stage II assessment shows that the Project site has been subjected to intensive investigation. The Ministry of Culture staff reviewed the archaeological assessment reports prepared for the Project and concluded it is are satisfied that provincial concerns for impacts to archaeological sites have been addressed and there are no outstanding concerns for the subject lands.

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 no further archaeological study through an individual EA is warranted.

Concerns were also raised about the choice of technology being used for the Project area. Some requesters believe there are alternative development opportunities that could be profitable for Domtar; in particular, tourism may be a viable option. In response to these concerns, Domtar advised MOE staff that run-of-river hydro projects are considered to be an environmentally preferred alternative for producing electricity. This Project will reduce the demand for electricity produced by more polluting fossil fuels. The Project will incorporate a more efficient hydraulic turbine that is more fish friendly than the current 100 year old design. The ESP does not require consideration of alternative solutions to a project. Given this is one of many hydroelectric facilities on the Ottawa River and the low potential for negative environmental impacts, I am satisfied that the Project is a suitable technology choice for the area.

Concerns were raised that Ottawa's Official Plan could have further implications for this Project and that the Project, if approved, would represent a precedent that facilitates further reindustrialization of parts of the capital and would not in the best interests of the Canadian public.

During the planning for the Project, the City of Ottawa Environmental Advisory Committee passed a motion not to support the Project. Subsequently, Domtar made presentations to Environment Advisory Committee to clarify the plans for the Project. It is the understanding of the MOE that the original motion to the City Council was dropped. Domtar will be submitting an application to the City of Ottawa for a Construction Permit. Domtar has advised the MOE that it remains engaged in negotiations with the NCC for the sale of the remainder of Chaudière Island to the NCC for uses which could be of historic interest to the NCC. Domtar is required obtain the necessary municipal approvals before it proceeds with the Project. I am satisfied that the concerns in respect of land use planning decisions do not warrant the preparation of an individual EA.

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Concerns have been raised by the requesters about whether sufficient surface water and groundwater studies have been conducted to assess the Project site. In response to these concerns, Domtar has explained to MOE staff that the Project does not alter the amount of water that is flowing in the Ottawa River, but does affect whether at certain times of the year the water is flowing over the Chaudière Dam or through the hydroelectric facilities. The downstream water will end up at the same location downstream before flowing under the Chaudière bridge. Domtar has indicated the Project is not expected to have any upstream or downstream impact on the Ottawa River or its possible deposits. Domtar noted that the intake channel construction will have negligible, short-term and localized impact on water and sediment quality. No special mitigative measures were recommended in the ESR. Domtar will submit an application to the MOE for a Certificate of Approval (Industrial Sewage) in accordance with Section 53 of the *Ontario Water Resources Act* (OWRA) for discharge of wastewater during construction dewatering, the wastewater retention ponds, the oil/water separator, and the storm water from the site. I am satisfied that water contamination problems are not expected, that the issuance of the Certificate of Approval will protect water quality, and that an individual EA is not required.

In accordance with the ESP, my decision will become final 15 calendar days after this notice of my decision is received, unless you or any other requester submits a request within that time to the Minister of the Environment that he review my decision. For this purpose, this notice of my decision is deemed to be received on the fifth day after it is mailed. Please note that the procedures concerning requests that the Minister review my decision are outlined in section B.4.1.2 of the Electricity Guide. If you do not have a copy of this guide, it is available on the ministry's website.

If the Minister is not requested to review this decision, Domtar must submit the required Statement of Completion and may then proceed with the Project, subject to any other permits or approvals required. The ESP indicates that Domtar must implement the Project in the manner it was developed and designed, as set out in the ESR, and inclusive of all commitments, mitigating measures, and environmental and other provisions therein.

I would like to thank you for participating in the ESP and for bringing your concerns to attention of the MOE.

Yours sincerely,



Agatha Garcia-Wright

A/Director

Environmental Assessment and Approvals Branch.

c: Mr. Francois Jette, Director, Energy and Chemical Recovery Boilers and Ancillaries, Domtar Inc.
Mr. Craig Wood, Project Manager, GENIVAR